CHAPTER 5 The History of the Polity of the Gay and Lesbian Ordination and/or Installation, and Same-Gender Blessings and Marriage Debates in the Presbyterian Church (U.S.A.) 1983 - 2009

5.1 Introduction

Chapter 5 examines simultaneously the development of gay and lesbian ordination and/or installation standards, and the same-gender blessing and marriage debate in the PC(USA), from the unification of the UPCUSA and PCUS in 1983 until 2009, through an historical analysis. This chapter concludes with an evaluation of the current ordination standards and same-gender marriage policy of the PC(USA) as defined by the Constitution and Authoritative Interpretations of the *Book of Order* rendered by General Assemblies and GAPJC rulings.

5.2 The 195th General Assembly of the PC(USA) in 1983

On 10 June 1983, the UPCUSA and PCUS, immediately after meeting for their respective General Assemblies, re-united after 122 years to form the PC(USA) (PC(USA) Minutes 1983:63) and adopted the *Articles of Agreement.* Article 1.9 stated that every policy statement adopted or issued by the General Assemblies of the UPCUSA and PCUS "shall have the same force and effect" in the PC(USA) "until rescinded, altered or supplanted" by the General Assembly of the PC(USA) (Appendix B-3 *Book of Order*). Thus, the "definitive guidance" statements by the UPCUSA in 1978 and the PCUS in 1979 had the same full effect in the PC(USA) since 1983.

5.2.1 Changes in the *Book of Order*

The 1983 General Assembly also adopted a new *Book of Order*; in effect, a new Constitution. It also settled the issue of ordination questions. It changed the

UPCUSA's "endorse," implying intellectual subscription to the discipline and polity of the church, and the PCUS' "approve." The fifth vow now read:

> Will you be governed by our Church's polity, and will you abide by its discipline? Will you be a friend among your colleagues in ministry, working with them subject to the ordering of God's Word and Spirit? (G-14.0405e *Book of Order*).

This vow has not changed in all this time, although it is found in the Directory for Worship section, W-4.4003, since 2007, when the vows for ministers, deacons, and elders were combined under one heading.

G-6.0108 was added in the Form of Government regarding freedom of conscience:

> a. It is necessary to the integrity and health of the church that the persons who serve in it as officers shall adhere to the essentials of the Reformed faith and polity as expressed in *The Book of Confessions* and the Form of Government. So far as may be possible without serious departure from these standards, without infringing on the rights and views of others, and without obstructing the constitutional governance of the church, freedom of conscience with respect to the interpretation of Scripture is to be maintained.
> b. It is to be recognized, however, that in becoming a candidate or officer of the Presbyterian Church (U.S.A.) one chooses to exercise freedom of conscience within certain bounds. His or her conscience is captive to the Word of God as interpreted in the standards of the church so long as he or she continues to seek or hold office in that body. The decision as to whether a person has departed from essentials of Reformed faith and polity is made initially by the individual concerned but ultimately becomes the responsibility of the governing body in which he or she serves. (G-1.0301; G-1.0302).

It reflects the tension found in the *Adopting Act of 1729*, which required subscription to the Westminster Standards, but also limited subscription to those standards that were essential and necessary. G-6.0108b would become a central issue in 2006 when the General Assembly issued an Authoritative Interpretation on G-6.0108 based on Recommendation 5 of the TTF's 2005 *Peace, Unity, and Purity* Report (see Chapter 5.49.1).

The General Assembly added a new statement regarding marriage to the Directory for Worship in the *Book of Order*:

> Marriage is a gift God has given to all humankind for the well-being of the entire human family. Marriage is a civil contract between a woman and a man. For Christians marriage is a covenant through which a man and a woman are called to live out together before God their lives of discipleship. In a service of Christian marriage a lifelong commitment is made by a woman and a man to each other, publicly witnessed and acknowledged by the community of faith (W-4.9001).

Although W-4.9001 did not address same-gender marriages or unions, it was a clear statement that the Constitution did not support it; only marriages between heterosexual persons were recognised and permitted in the PC(USA). Interestingly, but not surprising, the second sentence that "[m]arriage is a civil contract between *a* woman and *a* man" [emphasis added], once again showed the double standards the church has used. The Westminster Confession up to the 1950s defined that:

> Marriage is a union between one man and one woman designed of God to last so long as they both shall live (PCUS Minutes 1959:69-70; 6.133 *The Book of Confessions*).

The classic language of marriage between "one man and one woman" pertained to the idea of lifelong marriage, which can only be ended through the death of a spouse or divorce on the grounds of adultery; the only two reasons Jesus gave for a marriage to end and for remarriage to occur. Thus, if one spouse remarried for other reasons than death or adultery, one would be married to more than one spouse and commit adultery.

The PCUSA in 1952 (PCUSA Minutes 1952:188-189), which united with the UPCNA in 1958 to become the UPCUSA, and the PCUS in 1959 (PCUS Minutes 1959:69-70), respectively, amended the Westminster Confession 6.131-132 and 6.133-139 (*The Book of Confessions*) to allow for divorce and remarriage on grounds other than infidelity; namely, when "a marriage dies in the heart and the union becomes intolerable" (6.137).

In 1980, the PCUS adopted a document, *Marriage - A Theological Statement*, which speaks in several places about marriage between "a woman and a man" (PCUS Minutes 1980:174-187, PCUS 1980) and not "one man and one woman," to reflect the church's expanded understanding of divorce and remarriage. W-4.9001, in 1983, took any inference away that someone who might be remarried to another spouse might be living in adultery and polygamy, since the first marriage lasts "so long as they both shall live," by replacing "one" with "a." The same issue would be raised in 1996 with the introduction of G-6.0106b in the *Book of Order*, with the original overture of the Presbytery of San Gabriel using the words from the Westminster Confession of "one man and one woman" and not W-4.9001b of "a man and a woman" (PC(USA) Minutes 1996:686). The overture was amended to read "a man

and a woman" to reflect the new position since the 1950s which allowed for divorce and remarriage of officers, specifically ministers.

The point is that the predecessor churches of the PC(USA) changed their Confessions to allow for the remarriage of divorced persons, specifically for ministers to continue to serve in congregations after divorce and remarriage, despite acknowledging that Jesus strictly forbade divorce except on the grounds of adultery, and remarriage only after divorce resulting from adultery or the death of spouse. Yet, Jesus recognised that sin corrupts marriage and ". . . he acknowledged divorce as a reality, but without approving it" (PCUS 1980:361). Thus, "Christians who are sinners, do divorce . . ." (ibid), but partnered gay and lesbian Christians, who are defined as "sinners" by the 1978 and 1979 "definitive guidance" when they are actively involved in relationships, are not allowed to marry. An exception applies to the majority of heterosexuals in the church, while the minority of partnered gay and lesbian Christians is excluded under this exception.

5.2.2 The Report, *Historic Principles, Conscience, and Church Government*

The 1982 General Assembly of the UPCUSA approved Overture 78 requesting "a solemn interpretation . . . of the Preliminary Principles . . . and of [the Radical Principles] . . . and of their relationship to each other, and of their relationship to the process of amending our Constitution" (UPCUSA Minutes 1982:518.) The General Assembly instructed the Moderator to appoint a Special Committee, which met three times and submitted their report to the re-united General Assembly of the PC(USA) in 1983 (PC(USA) Minutes 1983:142). The General Assembly adopted the report, *Historic Principles, Conscience, and Church Government* (:105).

5.2.2.1 The Historic Principles of Presbyterianism

The Report consisted of an Introduction; Historical Context; the Relationship between Polity and Biblical Theology in Presbyterianism; the Historical Principles of Presbyterianism, namely the Preliminary Principles and Radical Principles; the Amendment Process and the Rights of the Conscientious Minorities; Conclusions;

and Recommendations (PC(USA) Minutes 1983:141-158). For this study, the Preliminary Principles and Radical Principles, and their referencing of the *Adopting Act of 1729*, are important.

5.2.2.1.1 Preliminary Principles

The 8 "Preliminary Principles" from the UPCUSA's *Form of Government* became "The Historic Principles of Church Order" in the *Book of Order* of the PC(USA) (G-1.0300-1.0308). The principles herald back to 1788 when a *Form of Government and Discipline* was adopted in a time of conflict and diversity. The report stated that the polity of Presbyterianism insisted ". . . on the rule of the majority and the rights of the minority . . ." (PC(USA) Minutes 1983:142). The principles described the identity of Presbyterians and how this identity shaped the life of the church, and dealt with the tension between freedom and order (:147).

The first Principle quoted the famous line in the Westminster Confession of Faith (6.109 *Book of Confessions*):

> That "God alone is Lord of the conscience, and hath left it free from the doctrines and commandments of men which are in anything contrary to his Word, or beside it, in matters of faith or worship" (PC(USA) Minutes 1983:142,148; G-1.0301(1)(a) *Book of Order*).

The report advised that the second part from quotation 6.109 should also be read to fully understand it:

> So that to believe such doctrines, or to obey such commandments out of conscience, is to betray true liberty of conscience; and the requiring of an implicit faith and an absolute and blind obedience, is to destroy liberty of conscience, and reason also (6.109 *Book of Confessions*).

The report stated that this meant:

> The individual has the right to dissent from church laws which the person believes to be a violation of the conscience. The Principles continue to clarify this right and the polity of our church provides guarantees to protect this right (PC(USA) Minutes 1983:148).

In the partnered gay and lesbian Christian ordination debate, this first Principle is vital. On the one hand, the "definitive guidance" which was interpreted to be binding upon the whole church, and later became an Authoritative Interpretation of the Constitution, violated the conscience of those who disagreed with it. On the other hand, those who were either gay or lesbian, or those who supported, approved, and participated in their ordination and/or installation, such as this writer; claimed that

"God alone is Lord of the conscience. . ." The report explained that "conscience" in the Westminster Confessions merely meant distinguishing right from wrong. But because of sin, the conscience can be confused or in error, thus disobedient to God. Therefore, one should take the advice of governing bodies seriously before claiming the right to private conscience. "The individual should also be willing to pay the price for holding a particular point of view" (PC(USA) Minutes 1983:148).

Connecting to the first Principle is the fifth Principle:

> . . . we also believe that there are truths and forms with respect to which persons of good characters and principles may differ. And in all these we think it the duty both of private Christians and societies to exercise mutual forbearance toward each other (G-1.0305) (PC(USA) Minutes 1983:150).

People may differ about matters, and the church should encourage diverse points of view. Diversity is healthy, while uniformity may be the result of the tyranny of those in control or the fear to acknowledge differences. Beliefs and practices, about which the church encourages and tolerates diversity, are nonessential. The difference between essential and nonessential articles entered the church through the *Adopting Act of 1729* (ibid).

5.2.2.1.2 The *Adopting Act of 1729*

Although the report spoke in general of the use of one's conscience and "truths and forms" with respect to which we may differ and to "exercise mutual forbearance," what comes to mind is the whole history of scruples that candidates have declared since 1729; i.e. exercising their conscience to disagree with a part of the teaching of the church. This is exactly what the *Special Commission of 1925* understood in their report as well.

For a full discussion on the *Adopting Act of 1729* and its relevance to the current ordination and/or installation debate, see Chapter 2.4.

Any minister who had a scruple with any article in the Westminster Confession or Catechisms had to explain them to the presbytery or synod. If the problem was not regarding an essential or necessary article, the presbytery had to admit the scrupulous minister. This meant that the *Adopting Act* presumed there were some non-essential

parts to the Westminster Standards. Principle five (G-1.0305 *Book of Order*) stated that there were things in which we might differ from each other; therefore, we should have mutual forbearance.

The question remains, how objectively can the church set the essential and necessary articles versus nonessentials, if the ministers who wrote the *Adopting Act of 1729* did not themselves specify them? The 1983 report specified that "[a] nonessential issue is judged by a governing body of the church to be one about which agreement or compliance is not required" (PC(USA) Minutes 1983:150), while "[e]ssential matters are those regarding which the church does require uniformity of either belief or practice (:151). Also, the Report specified that:

> Essential or necessary matters of faith and practice are determined by the appropriate governing body only in response to a challenge in a particular instance (ibid).
> If, however, the governing body determines that the particular question is essential and that compliance is necessary, then the individual holding a minority opinion must exercise judgment about the possible violation of conscience (ibid).

If this principle is applied to the "definitive guidance" of 1978 and 1979, which was not "uniform" since many disagreed with it, how would one exercise mutual forbearance when one group within the church is excluded from ordination and/or installation, without their sexual orientation or practice being defined as essential and necessary articles of faith and practice? This writer does not believe the 1978 and 1979 "definitive guidance" statements are in keeping with the *Adopting Act of 1729* regarding what are essential and necessary articles, nor with the Preliminary Principles regarding "freedom of conscience" and "truth and forms" in which we may differ.

Weston (2003:87), however, argues that when the northern UPCUSA, in 1967, wrote The Confession of 1967, rather than replacing the Westminster Standards, it created a *Book of Confessions* which included both previously mentioned confessions. Thus, he argues that the *Adopting Act of 1729*, which referred to the Westminster Confession and Catechism, "could no longer be the constitutional standard for subscription to the confession." The premise behind *The Book of Confessions* was that all the confessions were equal and statements of their time (:103).

The *Adopting Act of 1729* required agreement with "the essential and necessary articles of the said Confession;" i.e. the Westminster Confession of Faith. In Weston's (2003:105) view, *The Book of Confessions* removed the *Adopting Act of 1729* from the Constitution of the PC(USA). Further evidence is the constitutional Question asked of all officers when they vow to ". . . sincerely receive and adopt the essential tenets of the Reformed faith as expressed in the confessions. . ." (W-4.4003c *Book of Order*).

The contradiction lies in a vow to adopt the essential tenets from *The Book of Confessions*, while it is not essential or necessary within the Constitution, which the Westminster Standards were for 200 years (Weston 2003:105). Since the PC(USA) does not have a true confession, the *Book of Order* has become that. Since 1967, with the creation of *The Book of Confessions*, the actions of the church have shifted to the interpretation of the *Book of Order*, the part of the Constitution that deals with the institutional function of the church.

Thus, the *Book of Order* keeps on being expanded, and the theological parts of it become the theological standards for the church, in the absence of a true confession. Either the PC(USA) should condense all its confessions into one new one, or the first four chapters of the *Book of Order* should be reworked (Weston 2003:108). This is exactly what the 2006 General Assembly approved. In November 2007, the new Form of Government was issued. The 2008 General Assembly overwhelmingly voted that a period of discussion with every presbytery be entered and the revised report of the Form of Government Task Force be considered by the 2010 General Assembly (PC(USA) Minutes 2008:21).

5.2.2.1.3 The Radical Principles

The "Radical Principles," adopted in 1797, became "The Historic Principles of Church Government (G-1.0400 *Book of Order*). It defined that:

> . . . a larger part of the Church . . . should govern a smaller . . . a majority shall govern; and consequently appeals may be carried from lower to higher governing bodies, till they be finally decided by the collected wisdom and united voice of the whole Church. For these principles and this procedure, the example

> of the apostles and the practice of the primitive church are considered as authority (PC(USA) Minutes 1983:153).

This has become the practice for all appeals in the PC(USA): appeals are directed to a higher body, with the highest and final authority being the General Assembly (PC(USA) Minutes 1983:153). This writer believes that, although the report did not mention the GAPJC, it is presumed that the GAPJC, too, in judicial cases, speaks on behalf of the General Assembly, since their ruling is final and binding on the whole church.

This writer, however, strongly disagrees with the conclusion the report drew regarding the Radical Principles and majority rule. It stated:

> . . . there is a point beyond which a vocal minority which has been given every opportunity to press its case cannot be permitted to thwart the expressed will of the majority (PC(USA) Minutes 1983:154).

This statement that the minority cannot "thwart the expressed will of the majority" contradicts other statements:

> . . . recognizing that synods and councils may err (:142).
> Every person can use the processes to rectify an action believed to be in error or to persuade the majority of the body to deal with a neglected issue. No action is permanent. Any action of a governing body can be changed. The Constitution itself can be amended (:149).
> . . . it must be admitted that such synods and councils may err.(:152).
> Those who believe that a particular decision is in error have carefully described rights and duties. They may seek change within the processes of the church (:ibid).
> Clearly, however, the church has the right to change its mind, "new occasions teach new duties" (:154).

Although the report never mentioned gays, lesbians, or the 1978 and 1979 "definitive guidance" statements, one wonders how they would have the minority, who disagree with not just the majority "definitive guidance" positions of the UPCUSA and PCUS, but also with the unconstitutional way "definitive guidance" became church law, speak out and work for change. The UPCUSA, in 1978, clearly stated with the giving of "definitive guidance" that not everyone will agree with the majority's view. Recommendation 5b asked for "contact and dialogue among groups and persons who disagree on whether homosexual activity is sinful per se [original] and whether or not homosexual persons may be ordained as church officers" (UPCUSA Minutes 1978: 265).

One might argue that the report answered this question in Conclusions 4 and 5:

> Church officers must conform their actions, though not necessarily their personal beliefs or opinions, to the practice of the church in areas which the church has determined to be necessary or essential (PC(USA) Minutes 1983:157).
> The right of peaceable withdrawal should be exercised only when the individual cannot actively concur in decisions made by church governing bodies, nor passively submit to them (ibid).

The report, in stating that the minority "cannot be permitted to thwart the expressed will of the majority," ignored its own teaching and the history of the Presbyterian Church. Even in Conclusion 2, the document stated:

> Individuals have every reasonable right to press their case to try to persuade the majority of the church to their point of view and, having failed, they still have the right to enter a formal dissent or protest on the records of the governing body to which they belong (PC(USA) Minutes 1983:156).

It is the constitutional right of the minority to challenge the majority. The final word on any issue is never spoken; the report reminded us of our motto: "*Ecclesia reformata, semper reformanda* (The Church Reformed always being reformed)" (PC(USA) Minutes 1983:154).

5.2.2.1.4 Recommendations

The Committee recommended that the General Assembly receive the report and adopt a resolution as the "solemn interpretation" requested by the General Assembly of the UPCUSA in 1982:

> The Historic Principles of Presbyterianism have sought to establish balance between private judgment of the individual and the freedom of the church to order its affairs. While the majority cannot force its will on an unwilling minority, neither can the minority thwart the intention of the majority on the grounds that the conscience of the minority is violated. Freedom of conscience does not require that the conscientious opinion of every member of the church will prevail. Where there are differences of opinion, our church recognizes that the ways of resolving conflict between the freedom of individual conscience and the requirements of our polity are compromise, acquiescence by one group or another, or withdrawal without causing schism. Therefore, freedom of conscience is not abridged by the requirements of our Constitution (PC(USA) Minutes 1983:157-158).

5.2.3 The Document, *Presbyterian Understanding and Use of Holy Scripture*

For a full discussion, see Chapter 2.13.

5.2.4 Summary

1983 marked the unification of the UPCUSA and PCUS to form the PC(USA). The *Articles of Agreement* were adopted, assuring that all decisions made in the UPCUSA and PCUS "shall have the same force and effect" in the PC(USA) "until rescinded, altered or supplanted" by the General Assembly of the PC(USA). The "definitive guidance" statements by the UPCUSA in 1978 and the PCUS in 1979 were in full effect in the new PC(USA) and became the ordination and/or installation standard for partnered gay and lesbian Christians.

W-4.9001, stating that marriage was only between a man and a woman, was added into the *Book of Order* in 1983. Although it did not state it, it implied that in the PC(USA) only heterosexuals could be married, while partnered gay and lesbian Christians could not, by definition, be married. In 2009, despite many overtures to change the language and the fact that partnered gay and lesbian Christians can legally marry in Massachusetts and Connecticut, W-4.9001, and Authoritative Interpretations of it, still conveys the official position of the PC(USA): marriage can only be between a man and a woman.

The General Assembly also approved the Historical Principles of Presbyterianism - namely, the preliminary principles and radical principles - and added them to the *Book of Order*. The General Assembly clearly affirmed that each governing body elects its own officers. Yet, each of these bodies does not function autonomously. The whole church determines the rules and qualifications and each governing body must abide by the determination.

In summary, the polity of the PC(USA) since its beginning in 1983 did not allow for partnered gay and lesbian Christians to be ordained and/or installed as officers, or allow for same-gender marriage. Even if it seemed clear that the previous polity decisions made by the UPCUSA and PCUS were the new polity for the PC(USA), during the next 26 years, overtures, commissioners' resolutions, communications, Task Force reports, General Assembly decisions, GAPJC rulings, and changes in the *Book of Order* would try to make the ordination position clearer.

5.3 The 196th General Assembly of the PC(USA) in 1984

Commissioners' Resolutions 14-84 (PC(USA) Minutes 1984:735) and 37-84 (:743-744) asked the GAC to remove references to "Sexual Orientation" as a category of non-discrimination for employment. Commissioners' Resolutions 15-84 (:735) and 31-84 (:741-742) asked the General Assembly to reaffirm the actions of the 1978 General Assembly regarding homosexual practice, that it was a "serious sin" and "does not accord with the requirements for ordination." The General Assembly answered these resolutions by reaffirming the actions of the UPCUSA in 1978 and the PCUS in 1979 regarding the ordination of homosexuals and the acceptance of homosexuality in the church (:71). Thus, the General Assembly reaffirmed its position on "definitive guidance," that partnered gay and lesbian Christians could not be ordained and/or installed, but they were welcome in the church.

5.4 The GAPJC Ruling in *Union Presbyterian Church of Blasdell, et al. v. Presbytery of Western New York.* Remedial Case 197-9 in 1985

In 1983, the Session of Westminster Presbyterian Church in Buffalo, New York (Westminster) adopted a resolution declaring the congregation to be a "More Light congregation," extending to all of its members the opportunity for leadership, including the rights of gays and lesbians to be ordained as elders and deacons. They communicated this resolution to the Presbytery of Western New York (Presbytery). Seven other sessions adopted a resolution, the *Atkinson Resolution*, for the presbytery to direct Westminster to rescind their action as being contrary to the interpretative pronouncements of the UPCUSA, i.e. the "definitive guidance" of 1978 and binding upon the PC(USA) in accordance with Article 1.9 of the 1983 unification (PC(USA) Minutes 1985:119).

In February 1984, the presbytery approved a substitute motion in lieu of the first part of the Atkinson Resolution. First, the presbytery found Westminster's actions - ordaining homosexual elders and deacons - violated the established procedure. Second, the presbytery requested Westminster to overture the General Assembly for:

> . . . Presbytery's study, debate, and action that will affirm a long-standing practice of our Presbyterian system of government that places the responsibility for determining the qualifications of a candidate for ordination upon the

> ordaining governing body - for ministers of the Presbytery, and for elders and deacons the local congregation - the governing bodies best qualified to make such determinations (PC(USA) Minutes 1985:119).

This is exactly what the Session of Westminster had done! It had determined, as the ordaining body, its local standard for ordination. The rationale of the presbytery to ask Westminster to overture the General Assembly to give advice seems illogical.

The presbytery also adopted another resolution to appoint a committee to enter into a conversation with Westminster to review the issue of the ordination of homosexuals, and to report to the presbytery with information and guidance regarding the overture to the General Assembly (PC(USA) Minutes 1985:119).

In March 1984, twelve sessions (Blasdell *et al*) filed the first of a series of complaints with the Stated Clerk of the presbytery alleging both a delinquency and an irregularity as to the action and non-action of the presbytery. The complaints of the twelve sessions were consolidated before the PJC of the Synod of the Northeast (SPJC). The SPJC dismissed the complaints. The majority believed the complaints had been filed prematurely; the session did not violate any action of the General Assembly, and nothing in the Constitution prohibited the local congregation from electing and ordaining self-affirming and practicing homosexuals (PC(USA) Minutes 1985:119).

The case then went before the GAPJC in 1985 on appeal, and a majority found the SPJC to be in error, but that the presbytery had not committed an irregularity, since they had acted with disapproval of Westminster's actions (PC(USA) Minutes 1985:119). The GAPJC ruled that the General Assembly had the power to determine controversies and its interpretation was the law for the rest of the church to conform to (:120). This was affirmed by *Anderson v. Synod of New Jersey* (see UPCUSA Minutes 1962:316-325) and the paper which the PC(USA) adopted in 1983, *Historic Principles, Conscience, and Church Government* (PC(USA) Minutes 1985:119).

The GAPJC majority, however, erred twice in mentioning that the 1978 actions of the UPCUSA were an "authoritative interpretation." It incorrectly quoted the 1978 minutes from the UPCUSA and rendered an interpretation of what it believed the "definitive guidance" of 1978 and 1979 was:

> . . . in fact and in substance, authoritative interpretations of the Constitutions as they were then and as the Constitution presently exists (PC(USA) Minutes 1985:121).

The GAPJC's view that the "definitive guidance" was an Authoritative Interpretation was an incorrect reading and became part of the 1985 General Assembly Minutes of the PC(USA). The dissenting minority of the GAPJC correctly called the 1978 and 1979 rulings "definitive guidance" (PC(USA) Minutes 1985:122). This erroneous pronouncement of the 1985 GAPJC regarding the "definitive guidance," which unconstitutionally became church law through the actions of Thompson in 1978, continued to steer the PC(USA) down a slippery slope from which it has not recovered.

Based on its view that the "definitive guidance" was church law and had become Authoritative Interpretation, the GAPJC declared:

> Therefore, it is unconstitutional for the Church to ordain any self-affirming, practicing, and unrepentant homosexual as elder, deacon, or minister of the Word (PC(USA) Minutes 1985:121).

The issue at stake was the authority and power of the higher governing body to determine controversies. The GAPJC viewed the action of the UPCUSA in 1978, on ordaining self-affirming, unrepentant homosexuals, to be a determination of a controversy, which was controlling over lower governing bodies until it was rescinded, altered, or supplemented. It found the actions of the Session of Westminster irregular. An irregularity is an erroneous decision or action. The session committed an irregularity against the interpretation of the Constitution (PC(USA) Minutes 1985:121).

The GAPJC drew this conclusion:

> We, therefore reject the notion that the General Assembly, as a higher governing body, is without authority to provide definitive guidance in the area of the requirements for ordination as elders and deacons (PC(USA) Minutes 1985: 121).

The Session of Westminster had acted irregularly and defied the established position of the church.

The GAPJC evaluated whether the presbytery's response to the irregularity had been irregular. Although the presbytery's actions could have been clearer, and they could

have asked Westminster for constitutional compliance, they did ask the session to overture the General Assembly for clarification (PC(USA) Minutes 1985:121-122). Thus, the minimum requirements were met by the presbytery. The GAPJC reversed the decision of the synod and directed the presbytery to take appropriate action against Westminster to bring them into compliance with the constitutional standards for ordination (and/or installation) (:122).

The dissenting minority acknowledged that when "definitive guidance" was given in 1978, the *Book of Order* of the UPCUSA empowered the General Assembly to interpret the Constitution. "Such interpretations, however, cannot have the effect of amending the Constitution" (PC(USA) Minutes 1985:122). They also quoted *Anderson v. Synod of New Jersey* (see UPCUSA Minutes 1962:316-325) as evidence:

> It seems to us basic in our system, therefore, that the responsibility of testing the theological qualifications of a minister rests primarily with each presbytery. This is inherent in our policy and the vesting of that authority and responsibility must be scrupulously observed. Were that power invaded by either the Synod or General Assembly violence would be done to one of the basic concepts of our constitutional form of Church government. The review of presbyteries' exercise of that power must be limited, as we think it constitutionally is limited, to the most extraordinary grounds (PC(USA) Minutes 1985:122).

The majority focused on the power of the General Assembly, while the minority focused on the power of the presbytery. Again, the one group emphasised national ordination standards through the General Assembly, and the other group, the local ordination standards through the presbytery. Both were found in the Anderson decision, yet it depends on how the majority of a given PJC or GAPJC interprets previous decisions. Unfortunately, the opinion of the minority never becomes church law; the majority's decision is always final and law.

The dissenting minority came to the conclusion that the "definitive guidance" of 1978 that "unrepentant homosexual practice does not accord with the requirements for ordination" "cannot be binding on lower governing bodies" (PC(USA) Minutes 1985:122). It denied certain people access to church office and was in direct opposition to G-5.0202, which stated, "[a]n active member is entitled to all the rights and privileges of the church, including the right . . . to vote and hold office" (ibid).

The minority argued that while the *Book of Order* provided for a single category of active church membership, the General Assembly actions of 1978 and 1979 defined a second category of membership, thereby effecting a fundamental change in the Constitution. The only process whereby the Constitution could be amended was through an overture and vote by the presbyteries (G-18.0301). Thus, to declare that the "definitive guidance" was mandatory, when it stood in conflict with other sections of the Constitution, was unconstitutional (PC(USA) Minutes 1985:122).

The minority believed the decision of the majority contravened the constitutional guarantees related to inclusiveness, especially G-5.0103:

> No persons shall be denied membership because of race, ethnic origins, worldly condition, or any other reason not related to profession of faith (PC(USA) Minutes 1985:122).

And, membership included "participating in the governing responsibilities of the church" (G-5.0102e). These sections were not part of the law of the church in 1978 at the time the "definitive guidance" statement on homosexuality was made, but were in effect and had the full force of law at the time this litigation was instituted (ibid).

The minority believed that nowhere in our Reformed tradition and polity was there any reference to sexual practices or differences when making a profession of faith. Furthermore, the *Book of Order* was clear that members may differ in their theological positions (G-4.0403). Thus, the idea that homosexual behaviour was "the only disqualifying sin the church has thus far specifically addressed . . . is the kind of discriminatory treatment we have been taught to abhor" (PC(USA) Minutes 1985: 123).

At the 1985 General Assembly, twenty-seven commissioners dissented and fifty-one protested against this decision by the GAPJC (PC(USA) Minutes 1985:38). They mostly used the same arguments as the dissenting minority of the GAPJC (:39-40).

5.4.1 Summary

The 1985 GAPJC ruling in the Blasdell decision was in regard to the possible ordination of partnered gay and lesbian Christians as officers by the Session of

Westminster. The GAPJC ruled that such an action would be unconstitutional and declared that "definitive guidance" had, in effect, become Authoritative Interpretation of ordination standards. The law of the church was that a self-affirming, practicing, and unrepentant homosexual could not be ordained (and/or installed), and individual churches or presbyteries could not follow or ignore it as they wished. Subsequent General Assemblies attempted to make this position clearer.

Yet, the *Book of Order* still had no provision for "definitive guidance" or Authoritative Interpretation (North Como 2005:152). The process for interpretation was described in G-13.0112. The Advisory Committee on the Constitution (ACC) is the body which advises the General Assembly on constitutional changes, deals with overtures, gives interpretations of the *Book of Order*, etc. However, this process of interpreting the *Book of Order* was not designated as Authoritative Interpretation (:153).

After this GAPJC ruling, many believed there were three official ways in which constitutional law could be defined:1) A clear statement in the *Book of Order*; 2) Decisions made by the GAPJC in accordance with the *Book of Order* and legal precedent; 3) "Definitive guidance" of the Constitution by the General Assembly (cf. North Como 2005:153).

5.5 The GAPJC Ruling in *Simmons, et al. v. Presbytery of Suwannee.* Remedial Case 197-4 in 1985

The Presbytery of Suwannee (Presbytery) in 1983 voted to sustain the examination of Rev. T T Ellis and accept him into membership (PC(USA) Minutes 1985:114). A complaint by Rev. L M Simmons and others that the action was unconstitutional was filed with the PJC of the Synod of Florida (SPJC). They alleged that Ellis had told the presbytery that the Confession of 1967 "is not a statement of the Reformed faith by which he would be instructed, led, or guided in the fulfillment of his office," he believed women should not be ordained, and unconfirmed baptised children should not receive communion (McCarthy 1992:300). This is the same Ellis from the Huie ruling in 1977 (see Chapter 3.9).

The SPJC voted not to sustain the complaint by a 5-4 vote. The complainants appealed to the GAPJC (PC(USA) Minutes 1985:115). The GAPJC ruling extensively quoted various earlier GAPJC rulings. *Rankin v. National Capital Union Presbytery* of 1981 utilised the *Special Commission of 1925* and *Anderson, et al. v. Synod of New Jersey* of 1962, showing how the presbytery had broad discretion when accepting ministers. *Hambrick v. PJC of the Synod of North Carolina* in 1982, a similar case in which Rev. Marks would not ordain women, was referred back to the presbytery (PC(USA) Minutes 1985:115).

The GAPJC defined the limits of the presbytery's discretion with G-11.0403 and G-11.0402, which allowed the presbytery to examine ministers. To judge the compatibility of the examinee's "faith and views" with the Constitution, the presbytery was guided by G-6.0108 (PC(USA) Minutes 1985:115).

Both the UPCUSA and PCUS have acknowledged the relationship between "freedom of conscience" (G-1.0301) and actions which might "infringe on the rights of others" (G-1.0302) (PC(USA) Minutes 1985:115). The GAPJC did not interpret what G-6.0108 might mean in this case; rather, they showed what the *Huie* [sic - , *et al.*] *v. Synod of Southeast* (see PCUS Minutes 1977:112) ruling said:

> . . . dissenting views . . . may be tolerated if the presbytery . . . finds that those views may be held by a minister without destroying his effectiveness in carrying out church policy in conformity with the fundamental provisions of the Book of Church Order . . .

Thus, "dissenting views" (Huie ruling) which are not a "serious departure from these standards" (G-6.0108), fall under the judgment of the presbytery, the ordaining body.

The GAPJC quoted the 1982 Hambrick ruling that "[u]nless a minister is willing to perform all the [constitutional] functions of the office . . . he or she should not be received by the presbytery . . ." (PC(USA) Minutes 1985:116). Additionally, the *Pittsburgh Presbytery v. Maxwell* (see UPCUSA Minutes 1975:258) ruling stated:

> There is no question that refusal to ordain women on the basis of their sex is contrary to the Constitution.
> Presbytery does not have the power to permit the ordination of [a minister] who rejects this part of the polity of Church (PC(USA) Minutes 1985:116).

Yet, despite the clear wording from the Maxwell ruling, the quote continued to state that in the reuniting PC(USA) there was theological diversity. Thus, a Committee

was appointed to prepare a *Brief Statement of Reformed Faith* for possible inclusion in *The Book of Confessions*. Until that happened, *A Brief Statement of Belief* from the UPCUSA in 1962 was used. This statement should be used for orientation and examination prior to ordination, as well as the transfer of ministers from one presbytery to another, as was the case in this instance with Ellis (PC(USA) Minutes 1985:116).

The absence of a transitional statement indicated to the GAPJC that:

> . . . a presbytery needs to be afforded adequate discretion to test the conformity of its ministers' theology with the essential tenets of the Reformed faith as defined by our church. See *Rankin* supra at p.116 (PC(USA) Minutes 1985:116).

The Rankin case contained a similar issue regarding the ordination of women and other theological issues, in which the presbytery found Kaseman's answers acceptable (UPCUSA Minutes 1982:116).

What does not make sense is the next statement:

> Similarly, the presbytery's authority in connection with reception of ministers should be exercised in a manner which does not render meaningless the provisions of G-14.0202b concerning a congregation's election to exclude itself from the provision of G-14.0201 (PC(USA) Minutes 1985:116).

G-14.0202b referred to a waiver which smaller congregations, who might not be able to rotate their leaders, could request from the presbytery an exemption for the balance of men and women as elders, by majority vote, valid for three years at a time. G-14.0201 required that all congregations elect both men and women from their members as leaders. The reference had nothing to do with Ellis' views, nor was it mentioned that the congregation currently had a waiver in effect. How would the presbytery's action of allowing a minister who would not ordain women, "not render meaningless the provisions" of G-14.0202b? It has to do with the size of the congregation and the practicality of perhaps not electing women. Clearly there is not room for theological disagreement regarding the ordination of women from either a congregation or a minister. The dissenting minority, too, saw the flawed logic of the majority of the GAPJC by stating:

> . . . the exemption provided for congregations in G-14.0202 does not imply either implicitly or explicitly a concomitant exemption for ministers (PC(USA) Minutes 1985:117).

If the GAPJC had quoted G-14.0202a, it would have made more sense, since it allowed for a congregation not to conform to G-14.0201 and to apply for a waiver

with the presbytery. Again, there was no evidence that this was the issue in Ellis' case. His conviction was that the ordination of women was contrary to God's will as he interpreted Scripture (PC(USA) Minutes 1985:117).

The GAPJC was confronted with the question whether they should substitute the ruling of the presbytery for their own, and to determine whether the presbytery acted "reasonably, responsibly, and deliberately within the Constitution" regarding Ellis, similar to the 1982 Rankin ruling. Therefore, the complainants had to provide a burden of proof that the presbytery had acted unreasonably in finding that Ellis' examination disclosed no information that would disqualify him from service. Based on this conclusion, that GAPJC did not sustain any of the three specifications of error (PC(USA) Minutes 1985:116).

The second specification, that Ellis did not believe women should be ordained, showed something interesting: a similar complaint was raised in his previous presbytery, namely the 1977 Huie ruling (see Chapter 3.9). Ellis was asked if he would participate in the ordination of a woman when instructed by the presbytery, and he replied that he would comply. The GAPJC alleged that the complainants did not prove that Ellis had repudiated this position and would refute his ordination vows. Therefore, the presbytery acted correctly in voting to accept him (PC(USA) Minutes 1985:116).

The interesting aspect of this case is that Ellis did not declare a scruple with the aspects of the Constitution he disagreed with. For the second time, the GAPJC ruled in favour of presbyteries who examined and received ministers, Ellis and Mark (see Chapter 3.21), who would not ordain a woman, except when instructed by the presbytery to do so, in clear violation of the Constitution. National standards were continuously being applied to partnered gay and lesbian Christians, barring them from ordination and/or installation, despite no clear wording in the *Book of Order*. National standards, however, were waived for two men who refused to ordain women, despite national standards and the *Book of Order* clearly stating that both men and women were ordainable as deacons, elders, and ministers of the Word and Sacrament, and that ministers could not refuse to ordain women.

The minority of the GAPJC believed that all ministers had to comply with G-11.0403, which included conformity to *The Book of Confessions* and the *Book of Order*. Ellis did not conform through not accepting the Confession of 1967 and not ordaining women (PC(USA) Minutes 1985:117). Two members abstained and three were absent (McCarthy 1992:301).

At the 197th General Assembly in 1985, twenty-six commissioners dissented and one hundred eighty-one protested against this decision by the GAPJC (PC(USA) Minutes 1985:38). They used stronger arguments than the dissenting minority of the GAPJC; namely, Ellis was not in conformity with the *Book of Order*, but violated the Constitution, which gave full rights to men and women to be ordained (:38-39).

5.5.1 Summary

The 1985 GAPJC in the Simmons ruling, in this writer's opinion, ruled on the side of caution, and thus, erred. Despite the fact that Ellis was clear that he would not ordain women or accept all the Confessions, which were violations of the Constitution, the GAPJC would not impose their judgment on the presbytery who installed him as minister. The irony in this case was that nowhere was it specified that Ellis had declared a scruple. If that had been the case, the GAPJC's ruling would have made perfect sense, since Ellis would then have been allowed under a scruple, which was constitutional.

Through this ruling, and the reaffirmation of the ruling in *Huie, et al. v. Synod of Southeast*, involving the same Ellis who was welcomed into a presbytery without declaring a scruple in that situation either, the GAPJC also confirmed the ordination authority and power of the presbytery as the local ordination body. The GAPJC had the fullest authority to overrule the synod and presbytery's decisions, yet they chose not to. McCarthy (1992:301) believes the Huie ruling had become the precedent for the re-united PC(USA), and the GAPJC chose the more lenient interpretation of the ordination vows established in Ellis' earlier case in the PCUS, rather than the stricter interpretation of the Kenyon case in the UPCUSA.

One would hope that when a gay or lesbian candidate for ordination and/or installation declared a scruple with the Constitution, that they and their local ordaining body, i.e. the session or presbytery, also be granted the same consideration as was granted in this case and the earlier Huie ruling.

5.6 The 197th General Assembly of the PC(USA) in 1985

The Presbytery of Western New York sent Communication 11-85 to the 1985 General Assembly asking a definition of "definitive guidance." The ACC recommended that the General Assembly send this communication to them for study and for them to report to the 1986 General Assembly (PC(USA) Minutes 1985:151).

The Presbyterians for Lesbian and Gay Concerns (PLGC) reported to the General Assembly as a Special Organisation under Chapter IX. They stated:

> We hope and have faith that eventually, lesbian and gay people will be accepted as full participants in the Presbyterian Church on the same basis as all other Christians, without special and inappropriate demands for repentance. PLGC encourages congregations and their sessions . . . to commit themselves to welcoming lesbian and gay Christians into full membership and participation, including leadership positions (PC(USA) Minutes 1985:825).

This statement was in conflict with the "definitive guidance" of 1978 and 1979 and the GAPJC ruling in the 1985 Blasdell decision.

5.7 The 198th General Assembly of the PC(USA) in 1986

1986 marked the beginning of the battle over national ordination standards by trying to introduce language into the *Book of Order* prohibiting "self-affirming, practicing homosexuals," i.e. partnered gay and lesbian Christians, from being ordained and/or installed as officers.

5.7.1 Overture on "Fidelity in Marriage and Celibacy in Singleness"

The Presbytery of East Tennessee, in Overture 3-86, asked the General Assembly to amend G-6.0106 by adding a paragraph. The statement that "all have sinned and fall short of the glory of God" was followed by a sentence mandating that "nevertheless,

those who serve in the offices of minister, elder, and deacon should exhibit the highest qualities of moral character which shall include fidelity in marriage and celibacy in singleness" (PC(USA) Minutes 1986:777). The overture did two things. It brought sin into the characteristics of what was required from those ordained, and then specified one sin above all others, namely sex. By limiting where sexual activity of the ordained was allowed, only in marriage, it tried to exclude partnered gay and lesbian Christians from ordination and/or installation, since they could not marry. This same language of "fidelity in marriage and celibacy in singleness" would, on several occasions, appear in overtures. In 1996, the language of "fidelity in marriage and chastity in singleness" won the day and became part of G-6.0106b in 1997 when the majority of presbyteries ratified the General Assembly's amendment.

The ACC recommended that the overture be answered in the negative. The committee fully agreed that those ordained to church office should exhibit the highest qualities of moral character. One sentence in their statement is vital:

> Further, it is inconsistent with Westminster Confession's doctrine of sin to single out a particular sin as being any worse than another (PC(USA) Minutes 1986:34).

The ACC was right that the overture tried to highlight only sexual sins in the life of the ordained within the *Book of Order*, despite the Westminster Confession having whole lists of sins. The General Assembly approved the recommendation of the ACC and rejected this overture (ibid).

5.7.2 Overtures on Ordination Standards

The ACC dealt with several overtures and commissioners' resolutions regarding ordination standards, many resulting from the 1985 Blasdell ruling (PC(USA) Minutes 1986:195-196). The Presbytery of Western New York asked for an interpretation of the words "definitive guidance." The ACC viewed the majority GAPJC ruling in the Blasdell remedial case as meaning that the General Assembly did have the power to determine controversies and matters of interpretation. When making a pronouncement, it had the full force of law, which the rest of the church must conform to, until the General Assembly altered its actions (:195, cf. *Anderson v. Synod of New Jersey* PCUS Minutes 1962:316-325).

The ACC did, however, note:

> . . . the Book of Order does not itself explicitly answer the question of the force which shall be given to an interpretation by the General Assembly of the Constitution. If the Book of Order contained a clear statement on this point, the current problem would not be before us . . . . In some cases the permanent judicial commissions have taken General Assembly interpretations to be the law of the church with the same force as explicit written language in the Constitution itself. On other occasions, the Assembly or a Permanent Judicial Commission has interpreted such declarations as advisory (PC(USA) Minutes 1986:196).

Thus, the majority report of the ACC admitted that this was a vague area. The *Book of Order* did not have a clear answer as to what force interpretations of the General Assembly had. This question by Western New York and many others over decades as to the force of the "definitive guidance" of 1978 proves the lack of clarity. The ACC admitted that pronouncements of various GAPJC rulings had not been consistent. Some had become church law and others only advice. This is at the heart of the debate: was the "definitive guidance" asked for in 1978 to be taken as church law or advice? The General Assembly of the UPCUSA in 1978 never clarified it, but the Stated Clerk, Thompson, did. And he later declared that he had made a mistake. For years, it was questioned, and General Assemblies reaffirmed the "definitive guidance," until the GAPJC in the Blasdell ruling finally declared the point moot and stated that the 1978 "definitive guidance" had, in fact, become an Authoritative Interpretation on the ordination (and/or installation) of partnered gay and lesbian Christians.

The basic question remained: whether decisions by one body were reviewable by a higher body, and if so, whether exceptions should be made in ordination (PC(USA) Minutes 1986:196). The report of the *Special Commission of 1925* was vital. The General Assembly did have power in deciding controversies, but the ACC stated that it was not absolute power (:197). It was a power which could be exercised under certain conditions only (cf. PCUSA Minutes 1927:72).

Next, the ACC spelled out the three sources of church law, namely the Constitution, final judgments of the GAPJC, and actions of the General Assembly, all binding on the whole church (PC(USA) Minutes 1986:197-198). The ACC clarified the review process of GAPJC decisions. Before 1972, 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 the process was changed in 1972 to eliminate direct review on the floor of the General Assembly (:197).

The result was that, on occasion, General Assemblies have to clarify the Constitution by means of amendments to the Constitution. Amendments can both overrule an action of the GAPJC by a change of constitutional language, or reaffirm it by making the language more positive. “It should be understood that the General Assembly retains ultimate authority, by following G-13.0112, to approve or disapprove a constitutional interpretation in a Judicial Commission judgment” (PC(USA) Minutes 1986:198).

The majority of the ACC responded that the “definitive guidance” of 1978 became binding upon the governing bodies until it was changed by a subsequent General Assembly, since the General Assembly was asked to interpret the Constitution. Two members of the ACC wrote a minority report asking that the Constitution be amended to eliminate an Authoritative Interpretation by the General Assembly as church law (PC(USA) Minutes 1986:198).

The majority rejected this proposal on several grounds. First, Presbyterian connectional principle “depends wholly upon the absolute authority of higher bodies to review and correct the actions of lower bodies in application of church law” (PC(USA) Minutes 1986:198). If a higher body’s interpretation of the Constitution was merely guidance, which the minority suggested, higher governing bodies would lose their authority. Second, anyone could convert any provision in the *Book of Order* from “binding law” to “strong guidance.” Third, uncertainty would exist whether “strong guidance” should or should not be followed in a particular case. The ACC asked that all the overtures and commissioners’ recommendations be answered in the negative (:199). The majority report was adopted by the General Assembly (:34).

5.7.3 Overture on Amending the *Book of Order* Regarding Interpretations of the General Assembly and the GAPJC

The Assembly Committee on Candidacy and Ministry recommended that the General Assembly send two proposed amendments to the *Book of Order* to the ACC to report back in 1987 (PC(USA) Minutes 1986:35): to amend G-13.0112 and D-4.0600, and give interpretations of the General Assembly and GAPJC, respectively, to be "the force of law until changed . . ." (:36). The General Assembly approved the recommendation and it became Referral 1-86 (PC(USA) Minutes 1987:143).

5.7.4 Overture on Revoking the Status of Presbyterians for Lesbian and Gay Concerns

The Presbytery of Tropical Florida, in Overture 158-86, asked the General Assembly to reprint the1978 Definitive Guidance on Homosexuality (PC(USA) Minutes 1986:835). The General Assembly approved that the reports, *The Church and Homosexuality* adopted by the PCUSA in 1978 and *Homosexuality and the Church* adopted by the PCUS in 1979, be reprinted in the 1986 Minutes (:52). The overture also asked that the General Assembly revoke the status of Presbyterians for Lesbian and Gay Concerns (PLGC) under Chapter IX as a "Special Organisation" since it appeared that the General Assembly endorsed their position (:835-836). The General Assembly voted not to concur and found PLGC to be in compliance with the *Guidelines for Special Organizations*. Inclusion as a Chapter IX organisation did not express approval or disapproval of the organisation's stance, but provided jurisdictional control (:52).

5.7.5 The Presbyterian Lay Committee

The ACDW was instructed to continually monitor the PLC's newspaper, *The Presbyterian Layman*, for "journalistic excesses," and if they continued, to issue further warnings and withhold a designation of compliance (PC(USA) Minutes

1986:57). The conflict between the denomination and PLC was coming to a boiling point, and non-compliance would remain an issue at the next General Assemblies.

5.7.6 Summary

The ACC and the 1986 General Assembly affirmed again that the "definitive guidance" of 1978 had become binding upon the whole church, until changed by a subsequent General Assembly. The 1978 and 1979 "definitive guidance" statements that self-affirming, practicing homosexual persons may not be ordained and/or installed as officers were in full effect.

5.8 The 199th General Assembly of the PC(USA) in 1987

1987 was a busy meeting for the General Assembly, which dealt with overtures regarding ordination and "definitive guidance," as well as the formation of the Special Committee on Human Sexuality (also called the Special Task Force on Human Sexuality or the Special Task Force to study Human Sexuality.

5.8.1 Amending the *Book of Order* Regarding Interpretations of the General Assembly and the GAPJC

The 1986 General Assembly sent Referral 1-86 to the ACC regarding proposed amendments to G-13.0112 and D-4.0600 designed to clarify the weight to be given to an interpretation of the *Book of Order* by the General Assembly, either upon recommendation of the ACC, or by the GAPJC in judgments in remedial or disciplinary cases. The ACC needed to clarify whether the interpretations were to be considered advisory or binding as if they were the words of the *Book of Order* itself (PC(USA) Minutes 1987:143).

The ACC agreed that ambiguity existed. However, it suggested an amendment to G-13.0103, adding a new subsection "r," that the General Assembly had the responsibility and power:

> To provide authoritative interpretation of the *Book of Order* which shall be binding on the governing bodies of the church when rendered in accord with G-13.0112 or through a decision of its Permanent Judicial Commission in a remedial or disciplinary case. The most recent interpretation of a provision of the *Book of Order* shall be binding (PC(USA) Minutes 1987:143-144).

The General Assembly voted to accept the ACC's recommendation and the Stated Clerk sent the proposed amendment to the presbyteries for their vote. The majority of presbyteries ratified the amendment and it went into effect in 1988 (PC(USA) Minutes 1988:33).

G-13.0103r provides that the General Assembly, or through its GAPJC, has the right to make an Authoritative Interpretation, no longer just "definitive guidance," which would be constitutionally binding upon the whole church and its governing bodies. The vital part of the article is that the "most recent interpretation . . . shall be binding." Thus, at its meetings, the General Assembly can issue an Authoritative Interpretation, which can be affirmed or replaced by a GAPJC decision, and vice versa. One example of the GAPJC reversing a General Assembly Authoritative Interpretation would occur in February 2008 with the Bush ruling, when the GAPJC declared that G-6.0106b could not be scrupled (see Chapter 5.56), while the 2006 General Assembly had issued an Authoritative Interpretation, based on the 2005 *Peace, Unity, and Purity* Report, that it could be scrupled. The 2008 General Assembly then replaced the GAPJC's Authoritative Interpretation with a new Authoritative Interpretation that affirmed the 2006 Authoritative Interpretation that G-6.0106b could be scrupled (see Chapter 5.60.1).

5.8.2 Clarification on Conflict between "Definitive Guidance" and G-5.0103 & G-5.0202

The Session of First Presbyterian Church in Ridgefield Park, New Jersey requested clarification, in Communication 4-87, from the General Assembly regarding the conflict between the "definitive guidance" of 1978 that "[o]ur present understanding of God's will precludes the ordination of persons who do not repent of homosexual practice" and G-5.0103 "[n]o person shall be denied membership because of race, ethnic origin, worldly condition, or any other reason not related to profession of

faith" and G-5.0202 "[a]n active member is entitled to all the rights and privileges of the church, including the right . . . to vote and hold office" (PC(USA) Minutes 1987: 832).

The case was regarding a previously ordained lesbian, who had been nominated to session, but who would not allow her name to be put forward; she thought it was hypocritical, since, from 1979, the church denied office to homosexuals (PC(USA) 1987:832). The General Assembly referred the request to the ACC which replied that the "definitive guidance" ruling of the UPCUSA in 1978 was declared by the 1985 General Assembly, through the GAPJC in a remedial case (Blasdell), to be binding on the governing bodies of the church. This ruling was also reaffirmed by the 1986 General Assembly (PC(USA) Minutes 1986:194-199).

The ACC clarified that repentance of homosexual practice as a prerequisite for membership in the church was not required, but repentance was a prerequisite for holding office. The apparent conflict was resolved by taking the language of G-5.0202, any active member has the right to hold office in the light of G-6.0108b, to become a candidate or officer of the PC(USA) ". . . one chooses to exercise freedom of conscience within certain bounds. His or her conscience is captive to the Word of God as interpreted in the standards of the church so long as he or she continues to seek or hold office in that body. . ." (PC(USA) Minutes 1987:146).

The ACC declared that the right of any active member to hold office was not an absolute right without bounds. Thus, through the interpretation of 1978 and subsequent reinforcement, the church interpreted its standards to require that ". . . officers cease to engage in homosexual practice" (PC(USA) Minutes 1987:146). Members could hold office, but ". . . it clarifies an area in which the liberty of a member who may seek to hold office is restricted" (ibid). The General Assembly approved the recommendation of the ACC (:66). The General Assembly reinforced that partnered gay and lesbian Christians could be church members, but they could only hold office if they "cease to engage in homosexual practice."

5.8.3 The 1978 "Definitive Guidance" and Church Membership

The Presbytery of Chicago, in Communication 17-87, asked for an interpretation of the 1978 "definitive guidance" regarding church membership of self-affirming homosexual persons (PC(USA) Minutes 1987:837). The ACC reconfirmed statements in the 1978 report, *The Church and Homosexuality*, that practicing homosexuals could become church members (:151).
There is an interesting statement which shows how any committee or General Assembly can interpret historical decisions and reports subjectively:

> The 1978 document contains only one paragraph which is binding on the governing bodies of the church and must be followed as though it were written into the Book of Order until changed by subsequent interpretation or by amendment. In this paragraph the 190th General Assembly (1978) addressed a specific request for interpretation of the Book of Order and gave its authoritative answer (PC(USA) Minutes 1987:151).

The ACC interpreted that the "definitive guidance" was "binding as if it was written in the Book of Order" [sic - italicised] and was an "authoritative answer." Neither one of these words and ideas are found in the "definitive guidance" paragraph. This is proof of how PJCs, GAPJCs and ACCs have read meaning back into the 1978 "definitive guidance" statement. Further proof of this argument is when the ACC stated:

> The remainder of the 1978 document provides strong guidance for the church but not law (PC(USA) Minutes 1987:151).
> The conscience of elders in voting to receive persons as active members of the church is not bound by this 1978 judgment (ibid).

One wonders why the Conclusion of *The Church and Homosexuality* from 1978, which offered "definitive guidance," had subsequently been taken to mean an Authoritative Interpretation which was church law and binding, while the rest of the document, which was not given as "guidance," was labelled as "strong guidance?" How is this in any way objective and a true interpretation and application of what was decided in 1978?

The question regarding an inconsistency between G-5.0202, an active member is eligible to hold office, and the 1978 prohibition that unrepentant homosexuals cannot be ordained, was answered with the response to Communication 4-87 (PC(USA)

Minutes 1987:151-152), stating that they could not be ordained. The General Assembly approved the recommendation from the ACC (:75).

5.8.4 Formation of a Special Committee on Human Sexuality

Commissioners' Resolution 4-87 requested the General Assembly to do a new study on sexuality (PC(USA) Minutes 1987:863). The Justice and Rights of Persons Committee presented a substitute resolution and the General Assembly voted to form a Special Committee on Human Sexuality (also called the Special Task Force on Human Sexuality). They were to study "the trends, issues, and movements pertaining to sexuality in American culture during the last decade, and to report back to the church on what these trends, issues, and movements might mean for the Presbyterian Church and its institutions" (:70).

Rev. D E Smith, a member of the committee, shared in a conversation with this writer that one of the major tasks was to create a holistic framework for human sexuality which included homosexuality as part of the whole. Smith stated that over and over again, previous General Assemblies had said, "we can't deal with the issue of homosexuality unless we first understand human sexuality." The report was due in 1990, but an extension was granted to 1991.

5.8.5 Overture on Elimination of Laws Governing Private Sexual Behaviour of Consenting Adults

The Presbytery of New York sent Overture 97-87 to the General Assembly to work for the decriminalisation of private homosexual acts between consenting adults. This was consistent with decisions by the UPCUSA in 1970 and PCUS in 1977 and reaffirmed by the PCUS in 1978 and 1979 (PC(USA) Minutes 1987:776).

The General Assembly adopted the overture and subsequently reiterated its opposition to sodomy laws, and urged the United States Government to eliminate laws governing private sexual acts between consenting adults and to enact laws

forbidding discrimination based on sexual orientation in employment, housing, and public accommodations (PC(USA) Minutes 1987:776).

The PC(USA) was consistent in accepting in practice what it rejected in theory (cf. PC(USA) 2004a:26). Partnered gays and lesbians' civil rights should be protected, they could become church members, but they were not allowed to be ordained and/or installed as officers.

5.8.6 Overtures on Sexual Responsibility

Overture 12-87 from the Presbytery of Cincinnati, with the concurrence of the Presbyteries of Harmony and Orange (PC(USA) Minutes 1987:740), and Overture 83-87 from the Presbytery of Atlanta (:772), asked the General Assembly to affirm the standards of sexual intercourse only in marriage between a man and a woman, and chastity of all unmarried persons. The General Assembly took no action (: 70). Thus, in 1987, presbyteries wanted to approve a standard for sexual practice which would exclude partnered gay and lesbian Christians; at this stage, they did not ask for "chastity" or "celibacy" to be the standard for the ordination of officers.

5.8.7 The Presbyterian Lay Committee

For a second year in a row, the PLC was found not to be in compliance with the guidelines of special organisations B-7, soliciting of funds (PC(USA) Minutes 1987:89). The situation would worsen at the 1988 General Assembly.

5.8.8 Summary

Since 1988, when G-13.0103r became part of the *Book of Order*, the General Assembly or its GAPJC could make an Authoritative Interpretation which was constitutionally binding upon the whole church and its governing bodies. However, GAPJC decisions were not reviewable; they could only be replaced by a new

Authoritative Interpretation, either issued by a General Assembly or a future GAPJC. The 1987 General Assembly also affirmed that the "definitive guidance" statements of 1978 and 1979 were now an Authoritative Interpretation of the *Book of Order* (PC(USA) Minutes 1987:66, 145-146). This would be reaffirmed in 1993 (see PC(USA) Minutes 1993:76-77).

There were now three official ways in which constitutional law could be defined and become binding upon the whole church: 1) A clear statement in the *Book of Order*; 2) Judicial decisions made by the GAPJC in accordance with the *Book of Order* and legal precedent; 3) An Authoritative Interpretation of the *Book of Order* by the General Assembly upon the advice of the ACC. Either the General Assembly or GAPJC could issue an Authoritative Interpretation, and one body could revoke the Authoritative Interpretation of the other through a new one. The latest Authoritative Interpretation would have full force and effect throughout the church. This would become a difficult issue from 2004 on, when General Assembly meetings would become biennial meetings rather than yearly meetings to save money. Thus, from 2004 on, the General Assembly can only issue an Authoritative Interpretation every two years, while the GAPJC can issue an Authoritative Interpretation at any given time when they make a ruling.

The General Assembly also subsequently reiterated its opposition to sodomy laws, and urged enactment of "laws forbidding discrimination based on sexual orientation in employment, housing, and public accommodations" (PC(USA) Minutes 1987:776). Again, the PC(USA) held that civil and government laws should not discriminate against partnered gay and lesbian Christians; however, they could become church members, but could not be ordained as officers in the PC(USA).

The General Assembly approved the formation of a Special Committee on Human Sexuality (also called the Special Task Force on Human Sexuality or the Special Task Force to study Human Sexuality), which was to report back in 1990, but extension was granted until 1991.

5.9 The 200th General Assembly of the PC(USA) in 1988

The 1988 General Assembly received the report of the Task Force on Theological Pluralism (TFTP), *Is Christ Divided?* The moratorium on answering overtures regarding ordination continued and the ACC waited upon the final report of the Task Force on Human Sexuality due in 1991.

5.9.1 Overture on the Power of Ordaining Bodies

The Presbytery of Hudson River sent Overture 20-88 to the General Assembly to:

> . . . uphold the power of sessions and presbyteries to ordain according to their understanding of the Book of Order as constitutionally correct, and recognize that the "definitive guidance" voted by the 190th General Assembly (1978) is an interpretation of the Book of Order and not a part of it (PC(USA) Minutes 1988:982).

The presbytery asked that sessions and presbyteries, the local ordaining bodies, retain their powers and set the standards for ordination according to how each understood the *Book of Order*. They were correct in that the 1978 "definitive guidance" was not in the *Book of Order*, but an interpretation of it. The ACC noted that this issue had been dealt with by the ACC in 1985 and 1986. The GAPJC in the Blasdell ruling recognised "definitive guidance" as the "law of the church" and the General Assembly reaffirmed it. Additionally, the 1986 General Assembly sent an amendment to G-13.0103 to the presbyteries, which they ratified, giving the General Assembly or the GAPJC power to make an Authoritative Interpretation (PC(USA) Minutes 1988:129). The ACC asked the General Assembly to reject the overture, which it did (:50).

5.9.2 Overture on Adding Members to the Special Committee on Human Sexuality

Commissioners' Resolution 37-88 asked the General Assembly to instruct the Moderator to add five new members to the Special Committee on Human Sexuality (also called the Special Task Force on Human Sexuality), since two of the sixteen members had resigned and no members existed on the Committee who upheld the

present position against ordination of practicing homosexuals (PC(USA) Minutes 1988:1074). The General Assembly adopted an amended motion instructing the Committee to return its final report no later than 1990 (:1075).

5.9.3 The Report of the Task Force on Theological Pluralism, *Is Christ Divided?*

The Task Force on Theological Pluralism was established in 1985. It grew out of concerns raised within the Committee on Pluralism and Conflict of the ACDW. Regular consultations with special organisations (Chapter IX) consistently raised issues relating to theological diversity within the church. Among these issues were conflicting perspectives on the value of diverse theological positions, the limits of theological diversity within the church, and the ways in which theological diversity should be dealt with in the Presbyterian community of faith (PC(USA) Minutes 1988:825). The 1988 General Assembly received the Report and commended it for information and study. Some of the relevant actions were to refer the Report to the TWMU to consult with all special organisations and invite them to prepare a reflective response to the Report (:851).

The Report dealt directly and explicitly with the heart of the problem:

> What seems to characterize the Presbyterian Church today is less its theological diversity than its avoidance of the challenges of that diversity (PC(USA) Minutes 1988:829).

The Report believed the words of Loetscher in *The Broadening Church* in the 1950s were still relevant:

> . . . memories and scars of the old fundamentalist-modernist controversy still largely inhibit among Presbyterians the frank and realistic discussion of theological questions which the times and the present opportunity call for. “The less theology the better” seems to be the lurking implication . . . (quoted in PC(USA) Minutes 1988:829).

Since Loetscher’s observations, the unity in mission had crumbled as assaults had been made on the polity, stemming from unaddressed theology. Therefore, “[t]he church’s preference for ‘unity in mission’ over ‘unity in theology’ has led to unity in neither” (PC(USA) Minutes 1988:829).

The Report reiterated the findings of the *Special Commission of 1925* that ". . . the Presbyterian system admits diversity of view where the core of truth is identical" (PCUSA Minutes 1926:62), but that the church, not the individual, must decide the limits of acceptability. Yet, in the final report to the 1927 General Assembly, the Special Commission held that the General Assembly had no right to declare ". . . that certain doctrines . . . are essential and necessary to the system of doctrine contained in the Holy Scriptures" (PCUSA Minutes 1927:81). The Assembly's right of review was affirmed, but its authority to issue binding doctrinal deliverance was denied (PC(USA) Minutes 1988:843).

The Report showed that these diversity limits were evident in the ordination vows where ordinands ". . . sincerely receive and adopt the essential tenets of Reformed faith as expressed in the confessions of our church." The crucial point is this: the Presbyterian Church has never formally identified the essential tenets (PC(USA) Minutes 1988:843).

Regarding the theological diversity and unity, the Report had insightful findings:

> The woeful quality of our theological discourse points toward an unpleasant answer . . . . Sadly, such theological discourse is neglected in the Presbyterian Church. Instead, we settle for the self-confirmation within discrete theological groupings which only leads to self-righteous dismissal of those with whom we disagree (PC(USA) Minutes 1988:848).

Thus, in the absence of theological discourse, which embraces diversity, various groupings tend to relate to one another on the basis of power, both within and without the formal organisation of the Presbyterian Church. "Chapter IX special organizations are but one manifestation of groupings which vie for power in the church. Groupings within the denominational structure also seek exclusive power to shape and direct the church's agenda" (ibid).

The result is that the groupings do not converse, but instead, battle each other, and do not engage their theological differences. "Theological concerns which might be explored together are displaced by secondary issues of polity and program which are decided by procedures of power" (PC(USA) Minutes 1988:848). The most pertinent example is the homosexuality issue in which theological questions are rarely addressed. When they are dealt with, it is only from within the perspectives of separate groupings. "Most often the issue is addressed by means of legal disputes

about the church's polity . . . . Groupings on both sides of the issue are content to engage in polity struggles while failing to address vital theological concerns" (ibid).

Another contributing factor is that our Presbyterian system is set up to govern, and, therefore, governance overwhelms theological discourse. This creates an absence of forums in which theological issues can be pursued together. The various groupings inevitably deal with the theological exploration, not the wider church. The relationship among the groupings becomes confined to jostling for position and influence when the various governing bodies vote on issues (PC(USA) Minutes 1988:848).

Even our presbytery meetings are not designed to discuss theological concerns and ". . . theological discussion is often suppressed in the interest of making decisions" (PC(USA) Minutes 1988:848). Similarly, General Assembly meetings deal quickly with the voting on theological issues, since there is so much business on the docket, believing it has dealt with the issue.

> The absence of theological discourse from meetings of governing bodies might be bearable were there other forums for theological explorations by Presbyterians. There are not. We relate to one another in governing bodies and the name of the game there is "power" (ibid).

In the absence of theological discourse, groupings tend toward structuralisation. This is evident in both the centralisation of denominational structures and the proliferation of Chapter IX and other special interest groups. This leads to the formation of special organisations, which feel their theological positions are not being heard within the structures of the denomination.

> Yet, the response led not to new theological openness, but to a calcifying of theological positions in institutional form. The emerging special organizations were as certain of their truth as denominational structures were of theirs. Thus the Presbyterian Church experiences a kind of theological Balkanization in which various groups are convinced that the faithfulness of the Presbyterian Church depends upon their action to preserve the gospel (PC(USA) Minutes 1988:849).

The end result is that theological discourse is absent, and even when present, it is reduced to competing claims made by competing structures (ibid).

In this writer's experience, and in conversations with those who have been in the Presbyterian Church for a longer period, the votes on both presbytery and General

Assembly levels have become the battleground for these Chapter IX organisations. They actively lobby to have their candidates elected or to have commissioners vote along their alliance to the grouping that fits their theological view. Since each of the 173 presbyteries announce their commissioners prior to the General Assembly, these special organisations actively recruit commissioners to vote their way. Thus, it is not surprising that that the special organisations have a reasonably good idea of how many commissioners might vote on their specific issue at General Assembly meetings. Unfortunately, the Report rightly indicated that these votes were not based on theological discourse, but on polity and power.

The Report summarised that theological discourse had become something vague because we have functioned so long without it. It is often confined to the seminary training of ministers, and not dealt with in congregations (PC(USA) Minutes 1988:849). This writer has seen evidence of this in the statistical results which show how few congregations and presbyteries engage in discussing the reports sent to them from the General Assembly. The Report hoped that theological discussion could once again become a priority (:849-850). However, the author of the Report, Rev. J Small, asserted in 1992 that theological dialogue has not been an effective way to overcome theological conflict (Weston 1997:143).

The Report requested that the recently created TWMU play an important role in developing genuine discourse (PC(USA) Minutes 1988:850). To ensure this, the Report requested that the unit report annually for five years regarding the process recommended in this Report and the results of programs developed in this process (:851).

The Report's summary revealed the core problem in the Presbyterian Church:

> The church has neglected theological discourse for too long. As a result, our unity is merely formal and our diversity is divisive (PC(USA) Minutes 1988:851).

This statement is even truer in 2009. The Presbyterian Church is a diverse denomination which includes conservatives and progressives, and big loyalist middle. However, the inability to find common ground to resolve disagreements regarding same-gender relationship has led to divisiveness, which is growing yearly and which will ultimately lead to a big portion of conservatives splitting off to join the EPC.

5.9.4 The Presbyterian Lay Committee

The General Assembly approved an amended Commissioners' Resolution 22-88. It deplored the action of the PLC in soliciting membership lists without session authorisation, instructed the PLC to remove those names, desist from soliciting further membership lists without authorisation of sessions, and found the PLC not in compliance (PC(USA) Minutes 1988:1069).

5.9.5 Summary

The 1988 General Assembly received the Report of the Task Force on Theological Pluralism, *Is Christ Divided?* The Report addressed several reasons for and factors which contributed to the divisiveness in the church; namely, remains of the fundamentalist-modernist controversy, Chapter IX special organisations, governance overwhelmed theological discourse leading to structuralism, and polity had replaced theological discourse. The moratorium on answering overtures regarding ordination continued until 1991 when the Report of the Task Force on Human Sexuality was due.

5.10 The 201st General Assembly of the PC(USA) in 1989

The General Assembly, in 1989, first voted not to reaffirm the position on the ordination of homosexuals of the 1985 and 1986 General Assemblies, as it was told this was a moot point (PC(USA) Minutes 1989:75). Later, at the urging of a former Moderator, who was concerned that it appeared as if the General Assembly was retreating from its previous position on the ordination of gays and lesbians, a new motion was passed:

> That the 201st General Assembly (1989) reaffirm and celebrate that we are an ecclesiastical body that places high value on doing things in good order, and we do recognize that we are bound by previous decisions until they are changed by constitutional means (:89).

The result of the "definitive guidance" statement of 1978 and exactly what it meant had a lasting effect. The only option subsequent General Assemblies had was to

continuously affirm that General Assemblies had made "definitive guidance" clear by restating that practicing homosexuals could not be ordained (and/or installed). In hindsight, it was probably the only option left, although at that stage there was no language barring partnered gay and lesbian Christians from being ordained in the *Book of Order*; the pronouncements of the General Assembly and GAPJC rulings, as interpretations of the *Book of Order*, carried the same force. This constant reaffirmation of, and challenges to, the 1978 "definitive guidance" would ultimately lead to G-6.0106b being added into the *Book of Order* in 1997 to exclude partnered gay and lesbian Christians from ordination and/or installation.

5.10.1 Amending G-4.0403 to Grant Governing Bodies Discretionary Power to Ordain Church Officers without Regard to Sexual Orientation

The Presbytery of Hudson River, in Overture 89-16, asked the General Assembly to amend G-4.0403 by adding at the end a sentence reading, "Governing bodies may ordain church officers without regard to sexual orientation" (PC(USA) Minutes 1989:594). They pointed out that in 1978, the UPCUSA recognised in its Policy statement that "some are persuaded that there are forms of homosexual behaviour that are not sinful and that persons who practice these forms can legitimately be ordained" (UPCUSA Minutes 1978:264). Additionally, an inconsistency existed between the church policy barring gay or lesbian persons from church office, while advocating that civil law remove all such restraints (PC(USA) Minutes 1989:594).

The Historic Principles of Church Order in G-1.0305 recognises that there are truths in which we might differ and calls us to mutual forbearance. The presbytery asked for the current prohibition on ordination to be relaxed. Also, other governing bodies of different "theological convictions" did not have to accept such persons into their fellowship (PC(USA) Minutes 1989:594). This is a basic Presbyterian principle: officers are ordained for the whole church, yet governing bodies set their own standards. A particular session or presbytery might ordain a person, but that person might not be acceptable to another ordaining body. A session could not accept an elder or deacon according to G-14.0105 and a presbytery could not receive a minister according to G-11.0402 [sic - G-14.0402] (ibid). The overture was referred to the ACC (:216).

The ACC noted that the *Book of Order* did not contain reference to sexual orientation. But, the 1985 GAPJC ruling in the Blasdell decision and "definitive guidance" of 1978 had become church law and denied ". . . ordination of self-professing, practicing homosexuals . . . ." (PC(USA) Minutes 1989:216). The ACC found that such restriction impaired two concepts of Presbyterianism. First, the basic right of the people to choose their officers. "The freedom to select leaders of choice has been restricted by the sexual orientation rule" (:217). Second, "'. . . that there are truths and forms with respect to which men of good characters and principles may differ,' (G-1.0305); that the church is called 'to a new openness to its own membership' (G-3.0401) . . . Here too, the restraint of the sexual orientation rule conflicts with the underlying principle of forbearance" (ibid).

The ACC realised the inherent conflict in church law and asked the General Assembly to refer it to the *Committee for Study on Human Sexuality* and the *Task Force to Study the Theology and Practice of Ordination of the Ministry Unit on Theology and Worship*, to come back and advise the ACC on their conclusions (PC(USA) Minutes 1989:217). The General Assembly approved the recommendation of the ACC (:76).

5.10.2 The Presbyterian Lay Committee

The PLC refused to provide names of all its donors who donated more than $1000, continued to solicit church membership lists without the permission of sessions, and refused to take off unsolicited names from their lists per the instruction of the 1988 General Assembly (PC(USA) Minutes 1989:56, 722). The 1989 General Assembly directed the GAC to review the *Guidelines for Special Organizations* and instructed the Moderator to appoint a committee to meet with the PLC and to report back in 1991. Until then, all the PLC's privileges were suspended (:57).

One could sense the tension that existed in the denomination at this stage with the PLC. This relationship has continued to deteriorate, and the PLC has become progressively more negative and critical of the General Assembly, Moderators, Stated Clerk, other liberal special organisations, and the denomination.

5.10.3 Summary

Since a moratorium was in place on making decisions regarding ordination until 1991, when the report of the Special Committee on Human Sexuality would be received, the only significant action was the General Assembly reaffirming the decisions regarding the ordination of partnered gay and lesbian Christians made by the 1985 and 1986 General Assemblies. Overture 98-16 asked good questions regarding ordination and the current policy, but the ACC was not willing to answer it at this time.

5.11 The 202nd General Assembly of the PC(USA) in 1990

The Special Committee on Human Sexuality (also known as the Special Task Force on Human Sexuality) reported to the 1990 General Assembly (PC(USA) Minutes 1990:223) and the General Assembly accepted their progress report (:94). The moratorium on answering overtures regarding ordination continued and the ACC waited upon the final report of the Committee in 1991.

5.11.1 Overture on Affirming the Church's Historical Stand against Ordination of Self-avowed, Practicing Homosexuals

In opposition to Overture 89-16, the Presbytery of Tampa Bay sent Overture 90-60 to the General Assembly. It claimed ". . . the Word of God clearly specifies homosexual behavior (among other specified behaviors) as sinful and contrary to the creative will of God. . ." (PC(USA) Minutes 1990:768), but offered no texts to support its statement. It requested the General Assembly to continue its historical stand against allowing the ordination of avowed practicing homosexuals (:769). The second request shows the closed-mindedness of a segment of the church in asking the General Assembly to:

> . . .disapprove any committee study which finds that homosexual conduct is spiritually or biblically acceptable, regardless of considerations of "sexual preference" or "sexual orientation" (ibid).

The General Assembly referred the overture to the 1991 General Assembly (:94).

5.11.2 Presbyterians for Lesbians and Gay Concerns

The PLGC distributed two brochures for men and women who thought they might be gay or lesbian at gatherings attended by youth (PC(USA) Minutes 1990:777). This action irked the conservatives and they sent in Overtures 90-32, 90-35, 90-44, 90-46, 90-56, 90-59, 90-60, 90-66, 90-67, 90-68, 90-70, 90-73, 90-77, 90-83, 90-88, 90-96, as well as several communications to request the General Assembly either to not allow the PLGC to put up booths and distribute literature at youth events (:768), deny them Chapter IX status (:769), or instruct the PLGC to cease distributing material among young people (:777).

Interestingly, this is the first time in many years that overtures referenced *The Book of Confessions* to find support for their argument that "the practice of homosexuality is an unacceptable lifestyle for followers of Jesus Christ" (PC(USA) Minutes 1990: 777). Yet, they referenced only 4.087 (The Heidelberg Catechism Answer 87) which mentions "homosexual perversion," but which has been shown to be a clear mistranslation in 1962 (see Chapter 5.24.6). The occurrence of "sodomy" in 7.249 (The Larger Catechism Answer 139) was not referenced.

The Committee on Worship and Diversity found that some of the material distributed by PLGC was out of accord with standards and beliefs of the PC(USA); it should not have been distributed at youth events, and the appropriate ministry unit should have had more oversight over the PLGC's work. The Committee found it was not up to the General Assembly to discipline or censure organisations, but the appropriate governing bodies. Additionally, the Committee also recommended that provisions for special organisations be deleted (see Chapters 4.3 and 5.11.3). Thus, they recommended no action on any of the overtures and communications (PC(USA) Minutes 1990:83).

5.11.3 Special Organisations and G-9.0600-.0601

The General Assembly voted to delete G-9.0600-.0601 (PC(USA) Minutes 1990: 565). It also declared "that it will no longer provide any special recognition or

privileges to these special organizations" (:81). The presbyteries by a 109-60 vote approved the amendment to remove G-9.0600 (PC(USA) Minutes 1991:94; for a full discussion, see Chapter 4.3).

5.11.4 Summary

The 1990 General Assembly received the progress report from the Special Committee on Human Sexuality (also known as the Special Task Force on Human Sexuality), continued the moratorium on ordination issues, dealt with the reaction against the PLGC's distribution of brochures at youth events, and sent an amendment to delete G-9.0600-.0601 to the presbyteries. After the presbyteries approved the amendment in 1991, special organisations would no longer be held accountable through the *Book of Order*. Unfortunately, the history would show that this attempt to avoid theological conflict would have a detrimental affect in the long run. As the gay and lesbian ordination and/or installation, and same-gender blessing and marriage debates intensified in the 1990s and 2000s, a proliferation of special organisations, pertaining to the debates, would occur; none held accountable by the denomination through the Constitution.

5.12 The 203rd General Assembly of the PC(USA) in 1991

The 1991 General Assembly dealt with several referred overtures and communications from earlier years. It received the report from the Special Committee on Human Sexuality (also known as the Special Task Force on Human Sexuality), as well as 85 overtures and five late overtures related to the report. It was also the year when the issue of same-gender marriage was first raised.

5.12.1 Same-Gender Marriage

The General Council of the Presbytery of National Capital sent Request 91-23 to the ACC to:

> . . . render an opinion on whether a session may allow the use of its facilities for same sex unions (ceremonies) and whether ministers of the Word and Sacrament of the Presbyterian Church (U.S.A.) officiating at such a ceremony, are in violation of the *Book of Order* (PC(USA) Minutes 1991:411).

The ACC correctly found that there was no mention in the *Book of Order* of same-gender unions or ceremonies, and stated:

> If a same sex ceremony were considered to be the equivalent of a marriage ceremony between two persons of the same sex, it would not be sanctioned under the *Book of Order* (PC(USA) Minutes 1991:395).

The ACC stated that W-4.9001 specifically defined Christian marriage as between "a man and a woman." The ACC was clear that under the *Book of Order*, partnered gay and lesbian Christians could not be married.

Also, the session was responsible and accountable for the appropriate use of the church buildings and facilities (G-10.0102n). Thus, a session:

> . . . should not allow the use of the church facilities for a same sex union ceremony that the session determines to be the same as a marriage ceremony (PC(USA) Minutes 1991:395).

Regarding a minister performing a same-gender union or ceremony, the ACC stated:

> Likewise, since a Christian marriage performed in accordance with the Directory for Worship can only involve a covenant between a woman and a man, it would not be proper for a minister of the Word and Sacrament to perform a same sex union ceremony that the minister determines to be the same as a marriage ceremony (PC(USA) Minutes 1991:395).

The ACC found that within the Constitution of the PC(USA), same-gender marriages were not permissible. Yet, this statement is ambiguous. It is unclear what "the same as" means. If rings and vows are exchanged, but no marriage license is issued and the minister calls the service a blessing, can someone else determine that the service is a marriage and file a complaint? Likewise, what does it mean that the session or the minister determines that the union is the same as a marriage ceremony? Does the session or minister have to use specific words or actions to make this distinction? If the minister determines it is not a marriage, can that action be challenged?

Is "would not be proper" a clear prohibition or is it a suggestion? No definition of "would not be proper" exists in the *Book of Order*, neither were the strong prohibitions of "shall" or "shall not" used. Conversations this writer had with other ministers in the PC(USA) confirm that ambiguity over this decision has reigned for years: if it looks like a wedding and smells like a wedding, then it is a wedding, even if it is not announced as a wedding.

The problem with this recommendation of the ACC, which became part of the Constitution when the General Assembly approved it (PC(USA) Minutes 1991:55, 57), is the lack of clarity over which exact criteria should be met for a blessing to be seen as a blessing, and when does it become a marriage ceremony. Although it is not stated in the Minutes as such, the General Assembly adopted an Authoritative Interpretation on the status of same-gender blessings and marriages (see North Como 2005:158).

Despite multiple GAPJC decisions discussed later in this study, uncertainty still exists over the distinction between same-gender blessings and marriages, and which criteria are to be used to distinguish the difference. Unfortunately, the uncertainty regarding the force and intent of the language in the 1991 Authoritative Interpretation, coupled with the 2000 Benton ruling, created a climate which was rife for judicial complaints. This in turn led to General Assemblies and GAPJCs trying to clarify the polity, but wholly ignoring the theological dimensions of same-gender blessings and marriages.

5.12.2 The Report from the Special Committee on Human Sexuality, *Keeping Body and Soul Together: Sexuality, Spirituality, and Social Justice*

The 1987 General Assembly asked the Moderator to appoint a Special Committee on Human Sexuality (also known as the Special Task Force on Human Sexuality) to study the whole issue of human sexuality. Until it reported in 1991 to the General Assembly, all overtures and communication on the ordination of partnered gay and lesbian Christians were referred to the Committee. Within the Committee, there was sharp disagreement, a majority report and minority report took shape, and the various members shared their views before the report was released for study. The chair of the Committee, Rev. J Carey, stated that the framework of the report was “justice hermeneutics” which was “an attempt to understand human sexuality with a concern for justice and dignity for all people in society, a society basically patriarchal and geared toward men” (Van Marter 1990a). Rev. D Searfoss, a dissenter, took sharp issue with that perspective. He believed the report should be based upon the authority of Scripture and that the present paper undermined that authority (ibid).

The conservative side within the PC(USA) also made its voice known in the build-up to the release of the report. The Presbyterians for Renewal (PFR) presented the Committee members with a resolution, *Witness to Biblical Morality*, endorsed by 721 sessions. The resolution confirmed God's intention of lifelong fidelity in marriage; affirmed heterosexual marriage as the fulfilment of God's design; acknowledged God's expectation that unmarried persons remain celibate; advocated ordination only of repentant sinners, whether heterosexual or homosexual, and the withholding of ordination from the unrepentant whose practice of sexual sin prevented them from being biblical examples (Van Marter 1990b).

The problem with such a literal biblical view is that the PFR presumed to speak on God's behalf. Its views did not correlate with the reality of acceptable sexuality in Old and New Testament times and Church history. The patriarchs, David, Solomon, etc. had several wives, and had sex with their concubines and female slaves. And nowhere was there any comment that this was not God's design. Neither is there an unconditional command in Scripture that unmarried persons should remain celibate.

The Task Force on the Theology and Practice of Ordination requested a Panel report; i.e. a scientific poll conducted by the church's research services. The results showed that 90% of members, 95% of elders, 83% of pastors, and 68% of specialised clergy opposed changing the ordination policy of partnered gays and lesbian Christians (Van Marter 1991). This high percentage of negative views indicated that the majority report of the Special Committee on Human Sexuality probably would not be approved by the commissioners at the General Assembly.

The Report, *Keeping Body and Soul Together: Sexuality, Spirituality, and Social Justice*, included both a seventeen-member majority and a five-member minority report. Same-gender relationships formed only one tenth of the report, but became the single issue before the Assembly Committee on Human Sexuality. 85 overtures (91-100 to 91-185) were received regarding the report; the overwhelming majority of the overtures were opposed to the majority report. Five overtures were received too late to be considered (91-186 to 91-190). The overtures ranged from: requesting the majority report not be accepted; the minority report be accepted; neither report be

accepted; both reports accepted as information only; delaying the report; the committee be dismissed; appointing another committee to study the subject; etc.

A commissioner's motion that the 1978 ban on ordination be declared advisory and not binding was defeated. Another motion to delete the positions of the 1978 and 1979 General Assemblies regarding homosexuality was defeated (Anderson 1991:2). Despite four years of intensive study and work, the General Assembly, on the recommendation from the Assembly Committee on Human Sexuality, received, but did not adopt either the majority report and their recommendations, or the minority report of the Special Committee on Human Sexuality. (PC(USA) Minutes 1991:56). The vote was 534-31 (Carpenter 1992b:1). The committee also recommended the TWMU assist the church in exploring the issues raised around human sexuality using resources such as the majority and minority reports, the 1978 and 1979 reports, etc. (PC(USA) Minutes 1991:56). All 85 overtures were answered by the action taken on the report of the Assembly Committee on Human Sexuality (:57-60).

Several possible reasons exist for the extreme reaction to the majority report and its ultimate rejection. Many perceived the report was too heavily based on science and experience, and not enough on Scripture (North Como 2005:157). Others charged that the report contradicted Scripture and skewed Presbyterian theology (McClain 1991:1). Rogers (1995:130) asserts that the majority declared that they accepted only those Scriptures that agreed with their definition of justice love, and rejected others that seemed to disagree. Therefore, the majority assured the massive rejection of their report.

The overtures contained many reasons for the opposition to the majority report. The majority report violated Reformed doctrine and interpretation of Scripture (PC(USA) Minutes 1991:968 Overture 91-131). The Scriptures, and not changing mores of society, should have been used (:959 Overture 91-104). The majority report set aside Scripture as our guide for sexual morality and embraced an ethic based on contemporary mores of permissiveness (:965-966 Overtures 91-122, 91-127). It used a "justice hermeneutics" which set itself above Scripture rather than a hermeneutic that is attested in Scripture and *The Book of Confessions* (:962 Overture 91-113). Most overtures argued that the majority report had violated the Christian Church's

two thousand years of teaching regarding human sexuality, i.e. sexual intercourse was only permissible in marriage and celibacy was required for unmarried persons.

The General Assembly instructed the Moderator, Stated Clerk, and Moderator of the Assembly Committee on Human Sexuality to send a letter to every congregation to be read the next Sunday stating the church's position:

> d. We strongly affirm the sanctity of the marital covenant between *one* man and *one* [emphasis added] woman to be a God-given relationship to be lived out in Christian fidelity.
> e. We acknowledge that pain felt by many persons of every perspective on these sensitive issues and the pain engendered by these reports, and we urge their participation in the dialogue and study.
> f. We continue to abide by the position of the General Assemblies of 1978 and 1979 regarding homosexuality (PC(USA) Minutes 1991:56).

The General Assembly approved the wording of the letter (PC(USA) Minutes 1991:56-57) and it was sent out (Valentine, Andrews & Stewart 1991). Note how this letter misquoted W-4.9001 and used language from an earlier version of the Westminster Confession. The church had changed the language that marriage is between "one man and one woman," which made the issue of divorce and remarriage for clergy difficult in the 1950s, to "a man and a woman." Yet, it would retain the old language in the letter sent to every congregation!

The General Assembly also worded the statement, just like the *Book of Order* always does, in positive terms and did not use negative language. Thus, the General Assembly's Minutes and the actual letter did not mention same-gender marriage, it was only inferred. Also clearly lacking was a message to congregations that same-gender unions or ceremonies were permissible and that ministers could perform them. It was simply left out!

Although both the majority and minority reports of the Special Committee on Human Sexuality were not adopted, thus, they did not become legal documents in the PC(USA), the theology within each is worth examining. The following page numbers are from the actual reports, not the General Assembly Minutes.

5.12.2.1 The Majority Report

Although the majority report was not adopted by the General Assembly, it provides valuable information from the exhaustive study that was undertaken. The study encompassed the whole spectrum of human sexuality. The theological basis which the report used was "justice-love" or "sexual justice" and that we are "sexual-spiritual persons." Based on Mi 6:8, the report offered interpretive guidelines:

> Whatever in Scripture, tradition, reason, or experience embodies genuine love and caring justice, that bears authority for us and commends an ethic to do likewise. Whatever . . . violates God's commandment to do love and justice, that must be rejected as ethical authority (PC(USA) 1991:14).

Examples that violate justice love are patriarchy and the patriarchal model (:14-16); heterosexism which flows from patriarchy; and homophobia (:17).

The majority found that:

> . . . the taboo against same-gender sexual activity has mistakenly focused ethical concern on the gender of one's sexual partner rather than the moral quality of the relationship (PC(USA) 1991:19).

Whether one was attracted to the opposite or same-gender was not ethically important, nor if sexually active people were married or not, but that "they embody justice-love in their relating" (:28). Thus, where there was justice-love in a relationship, sexual expression had ethical integrity. This moral norm applied to all people regardless of their sexual expression. "The moral norm for Christians ought not to be marriage, but rather justice-love" (ibid). Single people "fully possess the right to be sexual." Marriage was not the only moral option for sexual active people (ibid). The church should also embrace single people and not view celibacy as the only moral option for them (:29).

The brief exegesis of biblical texts debunked the typical view that the Bible mentions "homosexuality" in many places. Gn 19 did not speak about homosexuality, but intended violent gang rape. Nowhere in the Old Testament, or even in Jesus' words in Lk 10:10-13, was homosexuality mentioned as the reason for the destruction of Sodom (PC(USA) 1991:51-52). Jude 1:7 and 2 Pt 2:6-10 also did not speak about homosexuality. In Jdg 19:22-26, the sin that was condemned was violent gang rape, not homosexual behaviour. Dt 23:17-18 and passages in 1 & 2 Ki mention the *gedesah* and *gades*, literally the "holy woman" and "holy man" who played celtic [sic - cultic] roles in pagan fertility cults through heterosexual intercourse (:52). The

prohibition of male sexual acts in Lv 18:22 and 20:13 were found in the holiness code with a whole list of other sexual acts which were forbidden. The majority believed it was unacceptable to arbitrarily select which parts of the holiness code were applicable to our situation (ibid).

Regarding Rm 1:23 and 1 Cor 6:9-10, the report used the insights from Scroggs that these passages were written in the context of "dehumanizing same-sex practices, such as pederasty . . . and prostitution" (PC(USA) 1991:53). Today's partnered gays and lesbians have committed and loving relationships with mutuality and respect, unlike the relationships Paul described. Also, sexual orientation was unknown and the presumed norm was that everyone was heterosexual. The Bible did not speak with one clear voice on homosexuality; therefore, "the biblical mandate of justice-love, or right-relatedness, best informs our understanding of homosexuality today" (ibid).

Gays and lesbians were part of God's good creation and deserved God's good gifts of sexual relationships. Therefore, the majority stated:

> Denial of ordination to homosexuals, because they affirm their sexuality and "practice" justice-loving sexual relationship, is an affront to the good God who made us all (PC(USA) 1991:54).

This progressive report, which affirmed that sexual acts outside of marriage by single heterosexuals, and gays and lesbians, were permissible, if they passed the "justice-love" test, was not adopted. The minority report claimed it contradicted the church's long-standing understanding of the Scriptures and church tradition (:103, 117).

5.12.2.2 The Minority Report

The minority addressed the biblical texts from a different perspective; namely, having us understand the picture of human sexuality from the Old and New Testaments. They believed the Bible repeatedly emphasised life-long commitment of husband and wife to each other (PC(USA) 1991:111). A few texts regarding adultery were quoted, yet there was no mention of other male sexual practices which were prevalent in biblical times, e.g. sexual intercourse with a concubine, a slave, a deceased brother's wife, a prostitute, someone who is solely of Jewish descent, etc.

The minority did not acknowledge the diversity of ancient sexual practices, but created the impression that the Bible was uniform in its pronouncements; as if only one form of sexual acts, between husband and wife, existed.

Thus, with the consistent emphasis on the purity of marital sex, it was "not surprising that the Bible condemns homosexual practice as unacceptable deviations from God's intention for humankind" (PC(USA) 1991:111). The report then briefly turned to biblical passages, without regard for the historical context in which the texts were written. Their method was not to "avoid the plain meaning of these biblical passages" (:112); in other words, to only read the texts literally. Thus, what the text says is exactly what it means. Gn 19 was about homosexual acts. In recounting Jdg 19, the rape of the concubine was not even mentioned (:111), despite it being the crux of the story. Verses from 3 Maccabees 2:5 and Jubilees 16:6 were quoted, mentioning the sins of Sodom, but none of them were about same-gender sexual activity! Likewise, 2 Pt 2:6-7 and Jude 7 were referenced, as if the sin of Sodom was same-gender sexual activity (:112).

The minority report ignored the fundamentals of biblical interpretation, which the majority referred to. In 1982, the UPCUSA adopted *Biblical Authority and Interpretation*, which stated that Presbyterians use:

> . . . less explicit appeal to scriptural authority (PC(USA) 1991:11).
> There has been a shift of the locus of authority away from specific texts ("proofreading") and toward emphasis on the broad message of Scripture, often considered in its historical and social context (ibid).

The minority was guilty of ignoring the methodology of scriptural interpretation; namely, reading Scripture in its historical and social context, which the General Assembly of the UPCUSA approved and the PC(USA) subsequently approved, but also stood by. A mere literal reading of the texts and the section of texts which, on the surface, condemn same-gender sexual activity, is not scholarly exegesis.

Unfortunately, the minority report was not alone in its literal reading of Scripture. The gay and lesbian debate centres on variant reading and exegetical methodologies: historical and social context practiced by and large by progressives versus a literal reading practiced by and large by conservatives. The debate in this writer's opinion has come to a grinding halt, since neither side can come to an agreement regarding

what Scripture says or does not say. Rather, both sides have fallen into the pattern of using overtures to the General Assembly to change the polity of the church.

The minority concluded that ". . . the findings of science are at this time inconclusive . . ." and ". . . we have insufficient justification to depart from the historic Christian position on homosexual behavior" (PC(USA) 1991:117).

5.12.3 The Presbyterian Lay Committee

The Special Committee appointed by the 1989 General Assembly to consult with the PLC reported back. The report had several recommendations. One was that the Spiritual Welfare Task Force of the GAC hold four meetings a year where people could bring concerns; another that the General Assembly drop the issue of mailing lists and let congregations deal with the issue (PC(USA) Minutes 1991:421-422). The General Assembly approved the recommendations (:109), but none had real implications for the wilful defiance of the PLC, which still solicited mailing lists without session authorisation (:110). Former Chapter IX organisations no longer had to report under G-9.0600, since it was deleted from the *Book of Order* (see Chapter 4.3).

5.12.4 Summary

The 1991 General Assembly concluded that it was permissible for a session to allow a minister to perform a same-gender union or ceremony, as long as it was not the same as a heterosexual marriage ceremony. The prohibitions against same-gender marriages, the use of the church buildings for same-gender marriages, and ministers performing same-gender marriages, became church law in 1991. Ministers would defy this church ruling and continue to perform same-gender marriages. Sessions would make their congregations' buildings available. Subsequently, multiple charges have been filed and PJCs and GAPJCs have had to make several rulings.

After the 1991 General Assembly, the church had two rulings in place. First, the "definitive guidance" statements of 1978 and 1979, affirmed by the 1985 GAPJC to be an Authoritative Interpretation of the *Book of Order*, prohibiting all self-affirming,

practicing gays and lesbians from being ordained. The Authoritative Interpretation was still not written into the *Book of Order*, but was an interpretation of the Constitution.

Second, the 1991 General Assembly Authoritative Interpretation that same-gender marriage was not permissible. This ruling still stands today, despite many overtures to repeal this decision. This decision, too, is not written into the *Book of Order*, but is an Authoritative Interpretation of the Constitution. A PC(USA) minister is not permitted to perform a same-gender marriage ceremony, or a same-gender blessing that is perceived to be the same as a marriage. The irony is that only two states in the United States, Massachusetts and Connecticut – California from June through November 2008 - permit same-gender marriages. Thus, even if a minister were to perform a same-gender marriage outside of Massachusetts or Connecticut, it would have no validity or legal standing, since no such change of status can take place under current state law. This would be the premise for the Spahr ruling in 2008 (see Chapter 5.59).

The same-gender marriage issue has become a battle over wording and actions, both with no legal content. Legalistic Presbyterians deny partnered gay and lesbian Christians the rights and privileges that are afforded every other person in and outside the church. The *Book of Order* tends to use positive language and not excluding, prohibitive language, but W-4.9001, combined with GAPJC rulings and General Assembly decisions, prohibits PC(USA) ministers from performing one specific pastoral duty: to bless committed, monogamous, partnered gay and lesbian Christians through a marriage ceremony in God’s name.

The intent of the General Assembly has been that unrepentant, non-celibate gays and lesbians in the PC(USA) cannot be ordained, nor be married. The PC(USA) has steadfastly refused to acknowledge and approve that gays and lesbians, even in monogamous, committed, partnered relationships, can be anything else than self-affirming and self-acknowledging sinners, thus, ineligible for ordination as deacons, elders, and ministers of the Word and Sacrament. Partnered gay and lesbian Christians can, however, become church members, and the church has consistently advocated for the decriminalisation of their private sexual acts and their civil rights in

the United States and in the workplace. The PC(USA) has practiced what it confesses outside of the church, but has discriminated towards its own gay and lesbian members by barring them from office if they do not refrain from sexual activity.

A pastoral letter was sent to all congregations stating "[w]e have strongly reaffirmed the sanctity of the marriage covenant between one man and one woman to be a God-given relationship to be honored by marital fidelity" (Valentine *et al* 1991). In Chapter 5.2.1, this writer showed how the PCUSA, in 1952, which united with the UPNA in 1958 to become the UPCUSA, and the PCUS, in 1959, changed "one man and one woman" in the Westminster Confession 6.131-132 and 6.133-139 to "a man and a woman" to allow for divorce and remarriage on grounds other than adultery, namely when "a marriage dies in the heart and the union becomes intolerable" (6.137). The PCUS, in 1980, adopted *Marriage - A Theological Statement*, which speaks in several places about marriage between "a woman and a man" and not "one man and one woman," to reflect the church's expanded understanding of divorce and remarriage. W-4.9001 was added in 1983 and speaks about "a woman and a man" and "a man and a woman" alternatively.

Yet, when a pastoral letter was sent out regarding statements on marriage, the church fell back to classic language, which contradicted its own current policy that heterosexuals could divorce on grounds other than adultery, remarry, and still serve as officers! This is heterosexism practiced in its ultimate form: one set of sexual rules applied to heterosexual couples and a different set applied to gay and lesbian couples.

The language of "one man and one woman" is so ingrained in the church's language, that the final version of an overture on ordination standard, G-6.0106b, which referenced W-4.9001, keeping partnered gay and lesbian Christians from office, contained this wording, until it was changed on the floor of the General Assembly, through an alternate motion, to become "a man and a woman" (see Chapter 5.23.2).

5.13 The 204th General Assembly of the PC(USA) in 1992

No major decisions regarding ordination were made by the 1992 General Assembly, although an attempt to amend G-6.0106 was made.

5.13.1 Overture on Amending G-6.0106

The Presbytery of San Joaquin sent Overture 92-33. They argued that both Old and New Testaments forbid the practice of homosexuality and this was reaffirmed by both the 1978 "definitive guidance" and the 1985 GAPJC in the Blasdell ruling. The presbytery requested the General Assembly to amend G-6.0106 by inserting at the end of the paragraph:

> Governing bodies shall not ordain to church office persons who are in an unrepentant state of homosexual practice (PC(USA) Minutes 1992:850).

The overture was referred to the ACC (PC(USA) Minutes 1992:133) and it recommended that the overture not be adopted by the General Assembly. The ACC argued that the General Assembly "has consistently resisted attempts to include in the *Book of Order* a list of specific sins that preclude ordination" (:300). If this overture was adopted, then one could argue that other forms of behaviour should be listed which disqualify a person from ordination. The General Assembly, in its 1978 statement that "unrepentant homosexual practice does not meet the requirements for ordination," had already accomplished the intent of the overture (ibid). The moderator of the Assembly Committee on Church Orders and Ministry, M Hinz, agreed that listing specific sinful behaviours would set a dangerous precedent (Gill 1992). The General Assembly did not adopt Overture 92-33 (PC(USA) Minutes 1992:850).

5.14 The GAPJC Ruling in *LeTourneau, et al. v. Presbytery of Twin Cities Area.* Remedial Case 205-4 in 1992

In 1986, Ms. L Larges became a candidate under care of the Presbytery of Twin Cities Area (Presbytery). She passed all the exams required for ordination, except the

examination for polity, which was waived by the presbytery and approved by the Synod of Lakes and Prairies (PC(USA) Minutes 1993:264). The reason, not stated in the GAPJC ruling, is that she was blind.

In February 1991, Larges informed the Committee on Preparation for Ministry (COPM, currently CPM), before her final interview, that she was a lesbian woman. In April, the CPM voted to continue her as a candidate and reported the action to the presbytery in May. They did not, however, disclose her communication regarding her sexual identity. In October, the CPM voted to recommend that Larges be certified as "ready to receive a call." In November, the CPM reported their assessment to the presbytery and recommended that she be certified "ready to receive a call." At that stage, the report disclosed that Larges, prior to the April meeting, had disclosed that she was a lesbian woman. The presbytery still voted to certify Larges as "ready to receive a call" (PC(USA) Minutes 1992:164).

Larges stated before the presbytery:

> Since becoming a candidate five years ago in this Presbytery, I have found myself caught in the same trap in which too many gay and lesbian Presbyterians find themselves. There have been times when I thought I could betray who I am in order to follow a deeply felt call. There have been times when I thought I could abandon that call in order to be who I am. Most times I knew both options to be untenable, so I took no action. When the community called me seeking to pursue the next interview, my hand was forced. In informing the committee of who I am as a lesbian, I took the only step which held any integrity for me (North Como 2005:158).

After the presbytery meeting, 32 complainants (LeTourneau *et al*) filed a complaint with the PJC of the Synod of Lakes and Prairies (SPJC) that the call was irregular and requesting the SPJC to order the presbytery to rescind its action (PC(USA) Minutes 1993:164). The case went to trial in June 1992. The presbytery defended its action arguing that the calling presbytery, not a certifying presbytery, was responsible for deciding whether a candidate was fit to be ordained. Additionally, they stated that the seminaries encouraged people of all sexual orientations to become students (Van Marter 1992a). This writer showed earlier that Paragraph 11 of the 1978 policy statement encouraged seminaries to apply the same standards of admission for homosexual and heterosexual persons. A discriminatory duality exists in the PC(USA) church system: it allows gay and lesbian persons to be trained as ministers, but will not certify them to become candidates and, ultimately, ministers.

The SPJC ruled that the "definitive guidance" of 1978 applied to candidates for ordained ministry. The presbytery was ordered to rescind its certification (PC(USA) Minutes 1993:164). The SPJC asserted that a preponderance of evidence; namely, letters, documents, and sermons containing declarations, existed that Larges was a self-affirming, practicing lesbian (North Como 2005:159). North Como (ibid) is correct in stating that the SPJC made a judgment call guessing as to what Larges might do in the future, not based on any activity she was doing at that time.

Twin Cities appealed the SPJC ruling to the GAPJC and specified four errors. The GAPJC made its ruling in November 1992. First, the SPJC erred in declaring that "definitive guidance" applied to candidates. The GAPJC did not sustain this specification, since the candidacy process was intended to prepare and evaluate a candidate for ordained ministry.

> Sexual orientation and practice is relevant to a candidate's qualifications for ordination and must be investigated by a presbytery's COMP when, as here, the candidate has taken the initiative to declare his or her sexual orientation (PC(USA) Minutes 1993:164).

The second specification alleged that the SPJC erred in implying that the certifying presbytery was required to determine fitness for ordination, rather than the calling presbytery. The specification was not sustained since the SPJC did not rule that the certifying presbytery was required to determine fitness for ordination. A presbytery, in certification, must determine a candidate's readiness to receive a call. The third specification was that the SPJC erred in finding sufficient evidence to determine that Larges was a practicing homosexual. This specification was sustained.

> We hold that the evidence presented in the record of this case is insufficient to establish that Ms. Larges is now a practicing homosexual (PC(USA) Minutes 1993:164).

Although the presbytery did not inquire into this issue, they were required by the policy statement to make inquiry once Larges disclosed her "sexual identity as a lesbian woman" (PC(USA) Minutes 1993:164-165). North Como (2005:159) states a legal brief from the presbytery stated Larges had broken up with her lover in 1990.

The GAPJC reaffirmed the 1978 position that repentant homosexuals, who redirect their sexual orientation or adopt a celibate lifestyle, can be ordained. The GAPJC affirmed the SPJC decision, which ordered the presbytery to rescind Larges'

certification. Yet, Larges was to remain a candidate under care of the presbytery. When Twin Cities was satisfied, she could be properly certified as "ready to receive a call" (PC(USA) Minutes 1993:165). This writer presumes that it meant she would have to affirm that she had either changed her sexual orientation or was celibate.

Another issue which came up was that the church should not lose sight of the special relationship between the candidate, CPM, and the presbytery. The GAPJC criticised the presbytery for voting to certify, but not being willing to ordain Larges (PC(USA) Minutes 1993:165).

The GAPJC provided guidance to the presbytery and to the larger church by stating the policy statements regarding homosexuality from the 1978 UPCUSA document, *The Church and Homosexuality* (PC(USA) Minutes 1993:165, cf. UPCUSA Minutes 1978:263-266). The GAPJC ordered that the certification of Larges as "ready to receive a call" be put aside (ibid). The vote was 12-1 with one abstention (Carpenter 1992c:1).

Three GAPJC members concurred with the majority, but stated:

> We believe there are multiple and several flaws in the policy statement, which weaken its status as 'definitive guidance' or 'authoritative interpretation' of the *Constitution*. We believe that in several respects the policy statement detrimentally and perhaps unconstitutionally, limits or restricts other provisions of the *Constitution*, including but not limited to qualifications for membership and the church's commitment to openness and inclusiveness (PC(USA) Minutes 1993:165).

One member, Rev. W C Chamberlain, the Stated Clerk of the GAPJC, dissented in arguing that admonitions in the Bible were time-bound or belonged to culture, e.g. slavery and polygamy that were not contradicted. Also, "[t]he worldview expressed in Scripture is no more a bar to our acceptance of such knowledge than it has been to us in geography, biology, or physics" (PC(USA) Minutes 1993:166).

5.14.1 Summary

The 1992 GAPJC, in the LeTourneau ruling, affirmed the SPJC of Lakes and Prairies ruling that the Presbytery of Twin Cities Area rescind the certification of Larges as

"ready to receive a call," since she was a lesbian, despite the fact that it could not be shown that she was an "avowed practicing homosexual." The 1978 and 1979 "definitive guidance" -unrepentant homosexual practice does not accord with the requirements for ordination- was applied to Larges in its fullest extent. Therefore, this writer believes that the GAPJC and SPJC erred in their rulings and were not consistent in applying the Authoritative Interpretation of ordination standards at that point in time.

The GAPJC acknowledged Larges never admitted being in a partnered lesbian relationship. Neither the SPJC nor the GAPJC asked her whether she was in a partnered relationship. No evidence was provided to prove this. At most, she admitted to having a lesbian orientation, which, according to every ACC recommendation and General Assembly affirmation, does not bar one from ordination. Nor did she declare a scruple with the current Authoritative Interpretation of the ordination standards. Larges would twice more seek certification (see Chapter 5.55.1).

5.15 The GAPJC Ruling in *Sallade, et al. v. Presbytery of Genesee Valley.* Remedial Case 205-5 in 1992

The Downtown United Presbyterian Church of Rochester, New York (Downtown United) advertised for a co-pastor. They advertised themselves as a More Light congregation in which gay and lesbian elders served (PC(USA) Minutes 1993:166). In November 1991, the congregation voted to call Rev. J A Spahr as co-pastor. The Presbytery of Genesee Valley (Presbytery) proposed to adopt the recommendation of the Committee on Ministry (COM) and approved the call two days later. Two complaints were filed and a stay of enforcement was granted by the PJC of the Synod of the Northeast (SPJC), pending a trial (:167).

A special presbytery meeting was held in January 1992 to hear the two complaints against the action of the presbytery and to consider a motion to rescind the presbytery's approval of the call, which failed. Two preliminary SPJC hearings were held in April and May 1992 in which certain facts came out. Spahr was ordained in

the UPCUSA in 1974, and the presbytery admitted that she was an avowed practicing homosexual who divorced from her husband in 1978. She developed a friendship with another woman in 1980; they had lived in partnership since 1985. She publically acknowledged her orientation after 1978 (PC(USA) 1993:167).

Thus, the issue would pertain to, whether under the 1978 "definitive guidance," Spahr would retain her ordained status and receive a call, since gays and lesbians ordained prior to 1978 would not be affected by the "definitive guidance." The question arose over which kind of rights and rites were meant, since the words appeared in different ways and times in the records and transcripts, and the term "ordination rights" was not defined in paragraph 14 of the 1978 policy statement (Carpenter 1992b:1).

The SPJC conducted a trial in May 1992, and ruled that the presbytery had acted within constitutional limits in finding the call to Spahr in order and ordered the complaints to be dismissed on their merits (PC(USA) Minutes 1993:167). The "definitive guidance" did not apply to Spahr since she was ordained in 1974. The vote of the SPJC was 9-1 (Van Marter 1992b:1). The sole dissenter, the moderator of the SPJC, claimed the grandparent clause of 1978 ". . . did not mean to give license to a pre-ordained pastor to continue this sin or to start practicing it" (ibid). The problem with this statement is it read meaning back into the 1978 policy statement, which simply was not meant by the General Assembly. On face value, the statement in paragraph 14 was clear: Spahr was "grandfathered" in, and her ordination would not be affected by the 1978 "definitive guidance."

The complainants, which included an elder, fourteen pastors and nine sessions (Sallade *et al*), requested and received a stay of enforcement of the call from the GAPJC (PC(USA) Minutes 1993:167). An interesting fact was that only three votes of the seventeen members were needed for a stay (Van Marter 1992b:2). In November 1992, the GAPJC issued its ruling that, despite the five issues the SPJC raised, only one was necessary; namely, the 1978 "definitive guidance." The SPJC and GAPJC had different understandings of what the 1978 policy statement meant. The SPJC believed Spahr had not violated an explicit constitutional provision.

G-6.0106 had been interpreted by the General Assembly with respect to ordination, which was a different question (PC(USA) Minutes 1993:167).

The GAPJC argued that the "definitive guidance" statement ". . . essentially affirms the previous constitutional stance regarding homosexuality" (PC(USA) Minutes 1993:167). However, the document itself made no claim to be an interpretation of the Constitution. The GAPJC believed the SPJC viewed the policy statement too narrowly, relating solely to the ordination of homosexuals. Rather, it addressed the entire subject of homosexuality. Thus, the GAPJC did not view this as an ordination issue, but whether a congregation could disregard an affirmation of homosexual practice when calling someone for a position for which ordination was a prerequisite. Therefore, a self-affirmed practicing homosexual might not be invited to serve in a position that required ordination (ibid).

The GAPJC claimed, under the Radical Principles of 1797, a governing body was not free to exercise its own judgment contrary to constitutional standards. The presbytery should have advised Downtown United not to extend a call to an affirmed homosexual. If the congregation disregarded the advice, the presbytery had the responsibility not to approve the call (PC(USA) Minutes 1993:168).

Sallade *et al* specified three errors by the SPJC. First, the SPJC erred in failing to rule that an unrepentant, self-acknowledged practicing homosexual was precluded from ministry. The GAPJC sustained the specification of error. Second, the SPJC erred in declaring a double standard: one for those already ordained and another for those unordained before 1978. The GAPJC sustained the specification of error (PC(USA) Minutes 1993:168).

The most shocking misinterpretation and misrepresentation of the 1978 Policy Statement and Recommendations was in the GAPJC statement:

> Ordination itself, for those ordained prior to 1978, does not make them immune from the application of the broad principles of the policy statement after the date of its adoption. Recommendation fourteen of that policy statement provides protection from the removal of ordination for homosexual practices that occurred prior to its adoption. Recommendation fourteen provides amnesty for past acts but not license for present or future acts (*Minutes*, UPCUSA, 1978, Part I, p. 266) (PC(USA) Minutes 1993:168).

Recommendation 14 stated:

> [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).

The recommendation was clear that any gay or lesbian ordained before 1978 would stay ordained. There was no mention that immunity was at stake or that only homosexual acts prior to 1978 were included. There was no mention of "amnesty for past acts but not license for present or future acts." The 1978 General Assembly drew a line in the sand for ordination standards from that day forward, but did not make a decision regarding the ordination status of practicing homosexuals, i.e. partnered gay and lesbian Christians, who were already ordained. The GAPJC read meaning into the 1978 decision which simply did not exist.

The third specification of error was that the SPJC erred in its conclusion that the presbytery acted within constitutional limits to approve the call of Downtown United to Spahr, since a congregation could call a practicing homosexual who was ordained prior to the 1978 "definitive guidance" and a presbytery could sustain the examination of a practicing homosexual ordained prior to 1978. The GAPJC sustained the specification of error (PC(USA) Minutes 1993:168).

The GAPJC ruled that the presbytery acted irregularly in approving the call of Spahr; it was contrary to the standards of the PC(USA). The call was set aside, the presbytery had to inform the congregation of the call being set aside, the presbytery had to inform congregations to refrain from implying that persons not meeting requirements for ordination were eligible for office, and the COM was to be instructed by the presbytery to approve only calls to those who met the requirements (PC(USA) Minutes 1993:168). The vote was 12-1 with one abstention (Carpenter 1992d:1).

Four members concurred with the majority, but raised the same concerns regarding the status of the "definitive guidance" in the LeTourneau ruling. Again, Rev. W C Chamberlain, the Stated Clerk of the GAPJC, dissented. First, "definitive guidance" was superseded since 1983 by provision G-5.0202 in the *Book of Order* that "[a]n active member is entitled to all the rights and privileges of the Church, including the right to . . . hold office" (PC(USA) Minutes 1993:169). Second, "definitive

guidance" replaced the gifts of individuals in G-6.0106 with the general prohibition of a "category" of persons (ibid). Third, the "definitive guidance" lacked internal logical consistency. It held that unrepentant homosexual conduct was an offense, but it also should not affect those ordained prior to 1978 (:170).

Fourth, "definitive guidance" was "bad exegesis, bad theology, bad psychology, bad science" (PC(USA) Minutes 1993:170). Since sexual orientation was not chosen, but given by God, the facets of personality not chosen could not be sin. Chamberlain believed the sin in this case was "embarrassment." All parties affirmed that sexual orientation was not a bar to ordination. He believed Spahr offended niceness and, therefore, the majority's position was not consistent, since they found that she was in good standing, had ministerial gifts, and had been accepted by the calling congregation and her presbytery. He concluded:

> If Jane Adams Spahr is a sinner, why is she not to be disciplined? If she is in good standing, why can her call not be fulfilled? If some ministers in good standing cannot do what other ministers in good standing may do, how can this be anything other than a double standard? (ibid).

Chamberlain expressed what this writer has experienced as well: the Presbyterian Church employs double standards for elected officials. Spahr fit all the criteria: she was in good standing, she was ordained prior to 1978, and the GAPJC confirmed that the issue of when she was ordained was not an issue in this case. Yet, the GAPJC made an incorrect ruling in supplanting their judgment and reading of Recommendation 14 of the "definitive guidance" for what it really stated.

5.15.1 Summary

This writer believes that the 1992 GAPJC, in the Sallade ruling, was in error and gave an incorrect ruling and interpretation of Recommendation 14 of the "definitive guidance" of 1978, regarding the ordination of partnered gay and lesbian Christians prior to 1978. This ruling of the GAPJC was, however, an Authoritative Interpretation of the Constitution and, as such, was church law. Spahr, who, according to the 1978 General Assembly decision, was eligible to receive a call as a pastor, albeit as a partnered lesbian, had a call affirmed by the congregation, the presbytery, and the SPJC. However, this call was denied by the GAPJC ruling in

light of their understanding of what Recommendation 14 of 1978 meant; namely, that only prior acts were excluded.

Additionally, the GAPJC afforded "definitive guidance" constitutional status not justified by either the document or the process by which it was adopted. The document itself made no claim to be an interpretation of the Constitution, and did not use the term "guidance" to mean mandatory. Nor did the 1978 General Assembly of the UPCUSA initiate a constitutional amendment process.

Downtown United then hired Spahr, not as a pastor, but as a travelling lesbian evangelist, and started a new lobbying group, That All May Freely Serve (TAMFS) (TAMFS History [s a]). TAMFS' mission statement was:

> Called by the life and teachings of Jesus, compelled by our faith and charged by our conscience, we advocate for an inclusive church that honors diversity and welcomes lesbian, gay, bisexual, and transgender persons as full members. Full membership includes eligibility for ordination to the offices of elder, deacon, and pastor (TAMFC Mission).

Larges, from the LeTourneau ruling, also started working for TAMFS as its Regional Partnership Coordinator.

5.16 The GAPJC Ruling in *Presbytery of West Jersey v. Synod of the Northeast.* Remedial Case 205-15 in 1993

The Synod of the Northeast (Synod) met in January 1993 and the Social Concerns Committee recommended the Synod adopt Commissioner Resolution 1-93:

> The Synod of the Northeast declares itself to be a "More Light Synod," affirming the inclusiveness set forth in the *Book of Order*, encouraging all persons, regardless of sexual orientation, who seek to know Christ, to participate fully in the life of the church (PC(USA) Minutes 1993:181).

It also adopted Commissioner Resolution 2-93 that the Presbyterian Church:

> 1. should repent of its already identified sin of homophobia (see "The Church and Homosexuality," General Assembly, 1978),
> 2. should set aside the "definitive guidance" of 1978 regarding ordination, and
> 3. should reaffirm the power and responsibilities of sessions and presbyteries to ordain men and women to the offices of deacon, elder, and minister of the Word and Sacrament as stated in the *Book of Order* (PC(USA) Minutes 1993:181).

The vote was 66-52. The synod became the first synod or presbytery to take such a position (Carpenter 1993a). In February 1993, the Presbytery of West Jersey

(Presbytery) filed two complaints with the GAPJC, one for each of the two resolutions, requesting that the General Assembly order the synod to rescind the two resolutions. At a pre-trial conference in April 1993, the parties agreed to join the complaints, and stipulated the issue to be decided at trial was, whether in adopting these resolutions, the synod adopted a policy which was contrary to the current constitutional position of the PC(USA). The GAPJC found that it was not the case (PC(USA) Minutes 1993:182).

The presbytery asserted at trial and in its complaints that the resolutions encouraged "openly and unrepentant, practicing gay and lesbian persons to be officers" in the PC(USA) and "governing bodies to take erroneous action in ordaining unrepentant homosexuals as church officers." The GAPJC asserted the burden of proof rested with the presbytery. The presbytery presented no evidence that the synod had taken any action or failed to take any action inconsistent with the denomination's ordination policy (PC(USA) Minutes 1993:182).

The presbytery stated Scripture and the Constitution affirm that homosexual behaviour is sin and referenced *The Book of Confessions* 4.087; 7.249, and 9.47 (Carpenter 1993b). 4.087 is the disputed text in the Heidelberg Catechism Question and Answer 87 which mentions "homosexual perversion." However, as this writer will show later in this study, the phrase is an intentional addition in the 1962 translation by Miller and Osterhaven, and does not occur in the original German or Latin versions (see Chapter 5.24.6). 7.249 is The Larger Catechism Question 139 which mentions "sodomy." It is the only mention of any homosexual act in *The Book of Confessions* and refers to male sexual activity. However, the word does not specify if anal homosexual rape, consenting homosexual anal acts, or anal penetration of a female by a male is meant. Nor does the word specify if anal intercourse is meant at all. Furthermore, nowhere in *The Book of Confessions* is there any mention of sexual activity between two women, and "sodomy" would not apply to sexual acts between two lesbian women.

The GAPJC found the evidence presented at trial reflected that the resolutions constituted an expression of opinion, and did not constitute the adoption of a policy contrary to an established and controlling constitutional policy of the denomination.

It, however, rejected the synod's argument that the resolutions had "no inherent practical effect." A lower governing body may not, under the guise of "opinion," adopt a course of action in defiance of an established position of the church on a matter that had properly been determined by the General Assembly (PC(USA) Minutes 1993:182).

Last, the GAPJC concluded that the synod's adoption of the resolutions left its own constituency and the rest of the church confused about whether its intention was advocacy for change or for noncompliance. The synod should have advocated for policy change through procedures in the *Book of Order*. The GAPJC ruled the presbytery failed to demonstrate that the synod acted improperly and dismissed the complaints (PC(USA) Minutes 1993:182).

Three GAPJC members dissented. They believed the synod's claims at trial - its resolutions had no effect because they were only expressions of opinion - were misleading and not believable. Freedom of conscience applied to individuals, not governing bodies. The resolutions were not the way to express disagreement with the church and should have been declared out of order (PC(USA) Minutes 1993:182-183).

5.16.1 Summary

One would think that the 1993 GAPJC, in the West Jersey ruling, would have found in favour of the presbytery, in light of the Authoritative Interpretation that self-acknowledged and affirming, practicing homosexual persons could not be ordained and/or installed. However, there was not sufficient evidence presented by the presbytery that the synod's action was anything more than an opinion.

What is worrisome is that the GAPJC, which is not a theological body, did not keep to the church's polity, but ventured into what the Scriptures and Confessions state; namely, that homosexual practice is a sin. Yet, the GAPJC did not reference any biblical texts, and the references from the Confessions were questionable, since the Confessions did not deal with partnered gay and lesbian Christians. If we ignore the

use of "homosexual perversion" in the mistranslated Heidelberg Catechism, the only word that is left is "sodomy." But, the Confessions give no explanation or context of what it meant by this word. Is it homosexual rape? Do loving, committed, partnered gay Christians practice sodomy? How does sodomy apply to women?

5.17 The 205th General Assembly of the PC(USA) in 1993

In 1993, the floodgates opened up and overtures streamed into the General Assembly regarding same-gender unions, "definitive guidance," and the rulings of the GAPJC. Overtures received too late in 1992 were referred to 1993; many overtures and commissioners' resolutions from 1993 were referred to the 1994 General Assembly and will be discussed under Chapter 5.19.

5.17.1 Overtures on Amending W-4.9001

The Presbytery of Northumberland sent Overture 92-117 in 1992, but it was received too late and was referred to the General Assembly in 1993. The overture requested the General Assembly to amend W-4.9001, adding at the end of the paragraph:

> Therefore, ministers of the Word and Sacrament shall not participate in the blessing of any relationship outside of Christian marriage, and no Presbyterian Church (U.S.A.) buildings shall be used for the blessing of the same (PC(USA) Minutes 1992:896; 1993:852).

The ACC pointed out that the overture would prohibit ministers from being involved in the blessing of any relationship which might include Jews, Muslims, and others (PC(USA) Minutes 1993:308), since it narrowed the scope to "Christian marriage." The ACC noted that:

> It is highly irregular and extraordinary for the *Book of Order* to forbid a minister of the Word and Sacrament from certain activities (ibid).
> It is equally irregular and extraordinary for the *Book of Order* to mandate or forbid what a session can or cannot do with the congregation's facilities (ibid).

The ACC reminded the General Assembly of its advice in 1991 (cf. PC(USA) Minutes 1991:57, 395). The *Book of Order* ". . . is written in such a way to grant permission, not to forbid actions." The ACC recommended that General Assembly not adopt Overture 92-117 (PC(USA) Minutes 1993:308) and it complied (:100).

The Presbytery of Shenango sent Overture 92-123 in 1992, but it was received too late and was referred to 1993. The overture requested that W-4.9001 be amended by adding at the end of the paragraph:

> Therefore, it is inappropriate for ministers to participate in same-sex union ceremonies or for sessions to allow the use of church property for such ceremonies (PC(USA) Minutes 1992:899).

The ACC advised the General Assembly not to adopt Overture 92-123 (PC(USA) Minutes 1993:100). The ACC commented that the General Assembly in 1991 had discussed same-gender unions and determined that pastors were allowed to participate and sessions could make their buildings available, as long as it was not held to be a same-gender marriage ceremony (:101, cf. PC(USA) Minutes 1991:395).

Thus, a change to the *Directory for Worship*, to add language forbidding certain actions by ministers, was turned down, but overtures to amend W-4.9001 would continue in the years ahead.

5.17.2 Overture on the Unacceptability of Practicing Homosexual Leaders

The Presbytery of San Joaquin sent Overture 92-32 in 1992 asking presbyteries to discipline More Light Churches and their ordained officers for defying the historical sexual standards of Christianity, by ordaining avowed practicing homosexuals as deacons and elders. Those who approved and practiced homosexual behaviour should transfer their membership to another denomination (PC(USA) Minutes 1992:850). The 1992 ACC asked the General Assembly to refer the overture to its 1993 meeting (:100).

The 1993 ACC replied that the overture was in complete opposition to the current policy of hospitality towards homosexual persons, who were to be welcomed as church members. The ACC recommended the General Assembly not adopt this overture and answer it with the action on the resolution of the Representative Committee on Human Sexuality (RCHS) and it complied (PC(USA) Minutes

1993:77). The resolution confirmed that no practicing homosexuals may be in church leadership, but they were to be welcomed as church members.

5.17.3 Overture on Removing Impediments Placed by the "Definitive Guidance"

The Presbytery of New Brunswick sent Overture 93-100 requesting ". . . to remove any impediments to ordination based on interpretation of the *Constitution* . . . , particularly G-6.0106, or similar wording in Section 37.03 from the 1978-79 *Book of Order"* (PC(USA) Minutes 1993:902). Seven other presbyteries concurred with the overture. The ACC answered that Overture 93-100 did not ask for any constitutional amendments. However, it would deny the General Assembly the authority "to provide authoritative interpretation of the *Book of Order* which shall be binding on the governing bodies of the Church . . ." (G.13.0103r), and G-4.0301f that higher governing bodies have the right of review and control over a lower one. Furthermore, the 1985 GAPJC in the Blasdell ruling determined that "the right to elect officers contained in G-1.0306 is not absolute but is bounded by the constitutional framework of the larger church" (:319).

The ACC found that when the General Assembly renders an interpretation of the Constitution, as was the case with G-6.0106 and 1978 ("definitive guidance"), "the interpretation has the weight of constitutional law of the church until a new interpretation is offered by the General Assembly through one of its various means (e.g. amendment, new interpretation)" (PC(USA) Minutes 1993:319). The ACC believed the Constitution was unambiguously clear that the General Assembly has the power to make a constitutional interpretation, and it had done so (ibid). The ACC recommended that Overture 93-100 be answered by the General Assembly action on the resolution of the RCHS (:78, cf. 76-77).

Several presbyteries sent overtures with similar language to Overture 93-100. The Presbytery of Chicago sent Overture 93-109 asking the General Assembly to remove all impediments placed by the 1978 and 1979 'definitive guidance," which

contradicted the inclusiveness and rights of all active members advocated by the *Book of Order*. The "definitive guidance" according to the overture also:

> . . . have taken on constitutional authority without having gone through the process of amendment to the *Constitution* in accordance with the *Book of Order* (G-18.0201 and G18.0301) (PC(USA) Minutes 1993:906).

Overtures 93-100, 93-106, and 93-107, all with similar wording to Overture 93-109, asked that impediments to ordination based on interpretation of the Constitution, particularly G-6.0106, or wording in Section 37.03 from the 1978 Form of Government, be removed (PC(USA) Minutes 1993:902, 904-905). The General Assembly answered by its action on the resolution of the RCHS (:78, cf. 76-77).

5.17.4 The ACC Response to Overtures on "Definitive Guidance," Which Became Authoritative Interpretation

The ACC responded to Overtures 93-101, 93-103, 93-108, and 93-109 questioning the authority of the 1978 and 1979 "definitive guidance" statements. The term "definitive guidance" had never been used in the Constitution; however, the General Assembly and GAPJC under G-13.0103r could issue an Authoritative Interpretation since 1987, which was binding on all governing bodies and carried the full authority of the Constitution (PC(USA) Minutes 1993:322).

The ACC believed that:

> . . . the General Assembly statements of 1978, 1979, and subsequent years concerning the ordination of self-affirming, practicing homosexual persons and related recommendations adopted by the General Assembly have been considered by the judicial commissions of the church. They currently carry the weight of "authoritative interpretations" (PC(USA) Minutes 1993:322).

Thus, decisions by the GAPJC, which considered these earlier statements, were binding and:

> The question whether or not – in 1978, 1979, and subsequent years – it was constitutionally sound to declare the statements binding has become moot. Because of subsequent decisions of our church's highest judicial commission, the current prohibition to ordination has been determined (ibid).

The ACC argued that whatever "definitive guidance" might have meant, it had become unimportant, since the GAPJC had reinterpreted it in its decisions and it had morphed into Authoritative Interpretation. The ACC, as has been the case with the GAPJC, employed verbal gymnastics and advocated that it was not about what

"definitive guidance" meant in 1978 and 1979, but what it had become: Authoritative Interpretation. The ACC did not focus on the process, whether it was constitutionally sound to declare the statements binding, but on the end result; namely, the statements had become binding. Thus, the ACC could declare the point was moot. "Definitive guidance," even though it did not exist in the Constitution, carried the weight of Authoritative Interpretation and was the official policy of the denomination.

The facts of the ACC's reply were correct, but what they did not answer was the correctness of the "definitive guidance" of 1978 in becoming constitutional law and, finally, Authoritative Interpretation. The ACC correctly asserted that both the General Assembly and its GAPJC have, over time, affirmed "definitive guidance" had become Authoritative Interpretation, but it did not change the questions surrounding the process through which it occurred. That is why in 1993, 15 years after the infamous 1978 decision, presbyteries and commissioners were still questioning the constitutionality of "definitive guidance," which was not given as constitutional law, but as a reply to two overtures. Even the ACC was guilty of ignoring the question at hand and asserting that later actions and changes to the Constitution retroactively made the actions of 1978 acceptable and constitutional.

One finds that the confusion continued regarding when something was Authoritative Interpretation. The ACC finally stated, that "[a]fter extensive analysis" they found that constitutional law was established or interpreted in three ways: 1) Through the *Book of Order* and its established process for amendments; 2) Through decisions of the GAPJC; 3) Through interpretations of the *Book of Order* by the General Assembly, clearly identified as Authoritative Interpretation. Since 1983, all requests were first referred to the ACC (PC(USA) Minutes 1993:322). For any changes to or interpretations of the constitutional law, one of these three ways had to be followed. One wonders why an extensive analysis by those who know the Constitution would be needed; probably because it was not clearly defined. Therefore, many overtures challenged the "definitive guidance."

The ACC finally found that:

> 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).

The 1993 General Assembly adopted the recommendation from the ACC as an Authoritative Interpretation (:76-77). Thus, the "definitive guidance" statements of 1978 and 1979 had become Authoritative Interpretation of the Constitution through process 3: the General Assembly, guided by its ACC, identified the 1978 and 1979 "definitive guidance" statements as Authoritative Interpretation.

After 1993, there was no doubt that the official church law of the PC(USA) was that no "self-affirming, practicing homosexual person may be ordained." The problem with this Authoritative Interpretation was that several scenarios and questions were left unanswered. Could persons who were ordained after the 1978 policy statement be installed? Was their ordination valid? Were those who were ordained before the 1978 policy statement "grandfathered" in and eligible to be installed? Could someone be ordained who was a partnered gay or lesbian Christian, but who did not "self-affirm" or disclose their sexual orientation and/or relationship when interviewed by the presbytery or session?

By merely reaffirming the unclear wording of the 1978 and 1979 policy statement, both the ACC and the General Assembly did not solve the issue. The wording was fuzzy, and open to various interpretations. It provided an answer to Larges, that as a self-affirming lesbian she could not be ordained; it did not provide an answer to Spahr, who was already ordained but was prohibited from being installed as a self-affirming lesbian. The GAPJC ruling against Spahr still was not clear, since neither the ACC nor the General Assembly gave an answer as to why Recommendation 14 of the 1978 policy statement did not apply to Spahr.

5.17.5 Overtures on G-6.0106

The Presbytery of Milwaukee sent Overture 93-102, requesting a new paragraph "b" be added to G-6.0106:

> b. The decision as to whether a person possesses the "necessary gifts and abilities" referred to above (G-6.0106a), shall be reserved completely for the congregation or presbytery that has the power to call or ordain (PC(USA) Minutes 1993:903).

The ACC answered the overture with exactly the same arguments with which Overture 93-108 was answered; namely, it would deny the power of the General

Assembly to provide an Authoritative Interpretation; there should be review by a higher governing body; and it contradicted the 1985 GAPJC in the Blasdell ruling (:320).

The Presbytery of Milwaukee also sent Overture 93-104, stating that there was no biblical prohibition against homosexual persons living together in loving relationships (PC(USA) Minutes 1993:903). The ACC replied that it was conduct or practice, not orientation, which determined suitability for ordination. (PC(USA) Minutes 1993:320). The ACC advised the overtures not be adopted; the General Assembly complied and answered by its action on the resolution of the RCHS (:78, cf. 76-77).

5.17.6 Overture on Amending D-8.1600 to Provide for Accountability of the GAPJC to the General Assembly

The Presbytery of Albany sent Overture 93-37 to amend D-8.1600; mandating the review of GAPJC decisions by the General Assembly (PC(USA) Minutes 1993:874). The presbytery referred to past practices in the UPCUSA which made the GAPJC accountable to the General Assembly, but these practices were eliminated in 1972. The ACC argued that review of a judicial process by the General Assembly would be costly and cumbersome, since every single document, which shaped the final decision of the GAPJC, would have to be mailed out to every commissioner to review. The ACC believed the remedy was not in changing the process, but changing or clarifying the law(s) that led to those decisions (PC(USA) Minutes 1993:316).

The ACC noted that the *Book of Order* had been amended to assign power of final decision to the GAPJC. Thus, the General Assembly and GAPJC had uniquely assigned and non-overlapping roles (PC(USA) Minutes 1993:314). The ACC advised the General Assembly not to adopt Overture 93-37 (:316) and it complied (:137).

The logic of the ACC recommendation made sense, since the GAPJC dealt with several rulings per year. The ACC itself did not, however, facilitate the process when

questionable GAPJC rulings were made and presbyteries sent overtures questioning the rulings. In 1994, the ACC would deal with Overture 93-125, referred from 1993, regarding the Sallade ruling in 1992, but it did not discuss the actions of the GAPJC at all. Neither could the ACC or the General Assembly, as previously noted, make a judgment on any GAPJC decision. Thus, the ACC would have done well to take a dose of its own medicine from 1993, and help change and clarify the constitutional laws and process which lead to GAPJC decisions.

The Presbytery of Milwaukee sent Overture 93-33, requesting G-13.0103r and D-4.0200c be amended in order for GAPJC rulings to be reviewed and approved, or reversed, by the General Assembly. This would re-establish the power the General Assembly had before 1972 to hear, review, and reverse GAPJC decisions (PC(USA) Minutes 1993:871).

The ACC replied with its response to Overture 93-37 that problems and consequences existed in giving this power back to the General Assembly. They suggested the legislative process be used to change laws so that different judicial results should be reached (PC(USA) Minutes 1993:315). The problem with the ACC's reply was that it was the body that advised the General Assembly on constitutional changes, and as long as it recommended disapproving overtures to change constitutional process, and stated that neither the ACC nor the General Assembly could render opinion on or reverse GAPJC rulings, the problem continued. The ACC recommended Overture 93-33 not be adopted (ibid) and the General Assembly obliged (:136).

The amending of G-13.0103, creating section "r," on advice of the ACC in 1987, to give the GAPJC final authority in rulings, created a "Catch-22" situation where eighteen GAPJC members have the final say in judicial matters for the whole church, not the commissioners at the General Assembly, the representative body of all 173 presbyteries.

5.17.7 The Representative Committee on Human Sexuality

The report of the RCHS recommended that the General Assembly adopt a resolution in response to twenty overtures regarding ordination. The RCHS concurred with the ACC report that the 1978/1979 "definitive guidance," and subsequent statements concerning the ordination of self-affirming, practicing homosexual persons, had been considered by judicial commissions and carried the weight of Authoritative Interpretations (PC(USA) Minutes 1993:76, cf. 322). Despite this statement, there was confusion and serious division in the church.

Therefore, the RCHS recommended the 1993 General Assembly adopt as Authoritative Interpretation (G-13.0103r) the report of the ACC (PC(USA) Minutes 1993:76-77). It also called the church to ". . . study and dialogue on the issues of human sexual behavior and orientation as they relate to membership, ministry and ordination. . ." (:77). Each presbytery was asked to develop a plan for congregational- and presbytery-wide study and dialogue, and to present the results to the 1996 General Assembly (ibid). During this three-year study period, the church would maintain its ban against ordaining "practicing homosexuals." The vote was approved by 396-155 with seven abstentions (Christian Century 1993:626).

The only problem with such a decision was that all the records show how few congregations, sessions, presbyteries, and synods actually completed the studies or even engaged in dialogue around the issues.

5.17.8 Summary

1993 saw a massive number of overtures sent to the General Assembly, most regarding the ordination and/or installation of partnered gay and lesbian Christians. The General Assembly answered overtures on ordination and "definitive guidance" by stating that the 1978 and 1979 "definitive guidance" had become Authoritative Interpretation and, whether or not the process was constitutionally sound, it had become a moot point after fifteen years. The way this occurred was still debatable, but the reality was that an Authoritative Interpretation on ordination standards existed

in 1993. The current constitutional law was that self-affirming, practicing homosexual persons may not be ordained (and/or installed) as officers. Nothing was written yet into the *Book of Order*, but the Authoritative Interpretation of the Constitution was sufficient to bar partnered gay and lesbian Christians from office.

5.18 The GAPJC Ruling in *Hope Presbyterian Church v. Central Presbyterian Church.* Remedial Case 206-3 in 1993

In June 1991, the Session of Central Presbyterian Church in Eugene, Oregon (Central) ordained two self-affirming, practicing homosexual members to the office of deacon. The two individuals were found to be well-qualified, with one having just completed a term as elder. Both wrote a letter to the session acknowledging they were practicing homosexuals. Central conducted a careful process of open meetings and discussion concerning the ordination of the two individuals. The congregation, finding no better qualified and willing candidates, reaffirmed its original vote and again elected the two to the office of deacon. The two were later ordained by the session (PC(USA) Minutes 1994:142). One was a woman, H Boonstra, and the other a man, G Link (Anderson J D 1994b).

The Session of Hope Presbyterian Church in Portland, Oregon (Hope), hearing of the ordinations, filed a complaint with the Stated Clerk of the Presbytery of the Cascades (Presbytery), contending these ordinations violated Presbyterian law and constituted a rebellion against the Word and will of God. It required Central to publically repent (PC(USA) Minutes 1994:142).

The PJC of the Presbytery of the Cascades (PPJC) tried the case in February 1992. The PPJC found an irregularity had occurred in the ordinations of the two individuals. However, it ruled that the annulment Hope sought was “inappropriate” and declined to set aside the ordinations. The PPJC also rejected Hope’s additional contentions that the ordinations constituted a rebellion against the Word and will of God (PC(USA) Minutes 1994:142). During the trial, Central presented evidence that one of the persons had been ordained twenty-five years earlier as an elder, eleven years before the 1978 “definitive guidance.” The PPJC found that the ordination as

elder was not affected by the 1978 General Assembly action because of Conclusion (Recommendation) 14. However, the ordination as deacon and elder occurred at two different times and the rules were different, and the ordinations were to two different offices. The vote of the seven members of the PPJC was unanimous (Carpenter 1992a:1).

Hope appealed to the PJC of the Synod of the Pacific (SPJC). The SPJC held a hearing in January 1993 and rendered its decision in March 1993. It ruled that the PPJC erred in its ruling that an irregularity occurred in the ordination of the two individuals, but the PPJC did not err by refusing to annul the ordinations or by failing to require Central to repent and confess error (PC(USA) Minutes 1994:142). Thus, the SPJC found the ordination of the two self-avowed, practicing homosexuals was in order.

Hope then appealed to the GAPJC. The GAPJC considered two issues: first, the regularity of the ordination; second, the power of a higher body to annul or set aside an ordination. Hope specified three errors by the SPJC. First, the SPJC erred in failing to rule that the election and ordination of the two persons was null and void, and that they should have been removed from office. The GAPJC did not sustain the specification of error. The GAPJC stated:

> While this commission recognizes that the ordinations were not in accordance with constitutional law . . . , they must stand in accordance with *Book of Order* G-14.0203. Hope has failed to cite any precedent in church history where this relief has been granted (PC(USA) Minutes 1994:142).

G-14.0203 (currently G-14.0210) specified that ordination to an office was perpetual. Thus, despite the fact that Central had ordained two self-affirming, practicing homosexual persons, in defiance of constitutional law, the GAPJC acknowledged no single precedent existed to strip them of their ordination.

Second, the SPJC erred by failing to rebuke Central for rebelling against the Word and will of God, and by failing to order Central to publicly acknowledge wrongdoing before the presbytery. The GAPC did not sustain the specification of error (PC(USA) Minutes 1994:142).

Third, the SPJC erred in reversing that portion of the decision of the PPJC which declared the ordination of two self-affirming, practicing homosexuals to be irregular when: (a) such finding had not been appealed, and (b) this portion of the decision was itself based upon an erroneous interpretation of Presbyterian law (PC(USA) Minutes 1994:142). Clause (a) had to do with procedural issue - whether the SPJC could reverse a finding which had not been appealed (:142-143). The GAPJC did not sustain clause (a) of the specification of error. The GAPJC found the judgment of the lower body was subject to modification (:143).

Clause (b) dealt with a substantive issue. It questioned the SPJC's understanding of current constitutional law on the right of a session to ordain self-affirming, practicing homosexuals. The GAPJC sustained clause (b) of the specification of error. The 1985 GAPJC in the Blasdell ruling held that a self-affirming, practicing, and unrepentant homosexual may not be ordained as a deacon. This case was based on the 1978 and 1979 "definitive guidance." Although several overtures had challenged the GAPJC ruling, the General Assembly had not acted to overturn the decision (PC(USA) Minutes 1994:143).

In November 1993, the GAPJC ordered the decision of the SPJC be reversed and the decision of Cascades be reinstated (PC(USA) Minutes 1994:143). This statement was confusing, since the GAPJC affirmed the presbytery's decision that the ordinations were irregular and overturned the SPJC decision, but the GAPJC also affirmed the PPJC decision upheld by the SPJC that the ordinations not be annulled. Thus, this decision meant that, although the ordinations were irregular, they would stand and not be annulled. Van Marter (1993) aptly described this complicated decision as more a procedural than a moral victory for More Light Churches. Rev. D Snellgrove, the moderator of the GAPJC, said the decision was not precedent-setting, but Hope simply did not prove its case (ibid).

Five members of the GAPJC concurred with the majority decision in specification of error 2 and 3(a), but dissented with the decision on error 1 and 3(b). The minority argued that the Blasdell ruling relied primarily upon the 1978 policy statement and rejected G-5.0202, which guaranteed active members the right to hold office. The dissenting group in the Hope ruling held that the majority violated the *Book of Order*

G-5.0202 and the *Book of Order* could not be amended by "definitive guidance" (PC(USA) Minutes 1994:143).

The minority in the Hope ruling believed the majority decision in the Blasdell ruling was erroneous and must be overruled. Two basic doctrines which were fundamental in Presbyterian law should be considered. First, inclusiveness of all persons within the membership of the church was guaranteed by *Book of Order* G-5.0103. Active members include persons with a homosexual orientation (PC(USA) Minutes 1994:143). All active members could hold office (G-6.0202) (:144).

Second, the minority pointed out several sections of the *Book of Order* pertaining to the division of power among the four governing bodies of the church (PC(USA) Minutes 1994: 144). G-6.0108b stated that "[t]he decision as to whether a person has departed from the essentials of the Reformed faith and polity is made initially by the individual concerned but ultimately becomes the responsibility of the governing body in which he or she serves." The minority also stated that the local congregation was best qualified to evaluate and elect its own officers. The session's decision to ordain and install was ultimate and final; it was not subject to review by the presbytery or a higher governing body (G-6.0108b).

The dissenters argued that we could not approve a rule that arbitrarily precluded an active member, who was a homosexual person, from serving as a deacon. That would indeed be a scandal to the gospel (PC(USA) Minutes 1994:144). They believed Central acted in an exemplary manner.

The dissenters returned to the argument of the dissenters in the Blasdell ruling. They argued that the "definitive guidance" was not Authoritative Interpretation, and:

> Congregations should be free to prayerfully consider the guidance and to either follow the guidance or not as their consciences and the Holy Spirit leads them in the election of their church officers . . . . It follows inexorably that the ordinations were not irregular (PC(USA) Minutes 1994:144).

Next, they argued that the Report of the 1993 ACC, approved by the General Assembly, interpreted the "definitive guidance" to exclude unrepentant homosexuals as a class from ordination as deacons and elders, thus violating certain provisions of

the current *Book of Order*. The ACC report was largely predicated upon the Blasdell ruling. The dissenters believed Blasdell should be overruled, and the GAPJC should hold the "definitive guidance" was not Authoritative Interpretation. They sided with the SPJC ruling that no irregularity occurred in the ordination. They also declared the "definitive guidance" was not a binding Authoritative Interpretation (PC(USA) Minutes 1994:144).

Unfortunately, the opinion of the dissenters of the GAPJC, although valuable, did not become constitutional law. Their opinion did, however, give insight into how unclear the "definitive guidance" of 1978 and 1979 was even to the highest jurists of the church. Their argument was that it was not Authoritative Interpretation; therefore, the Blasdell ruling, predicated on "definitive guidance," should be overruled.

The day after the GAPJC ruling, one of the SPJC members, J W Runde, resigned, stating:

> For any acceptable court system to work, the highest authority in it must remain true to the precepts of the law it administers. If it does not, it can hardly expect lower tribunals, or anyone subject to its authority, to do so. If the PJC of the General Assembly does not follow clear provisions of the *Book of Order*, how can it expect the rest of us to follow and implement them? (Runde 1993).

Both GAPJC members and a SPJC member felt that the majority of the GAPJC based their decisions not on the *Book of Order*, but on other standards, including "definitive guidance," which formed the bases for the 1985 Blasdell ruling and subsequent other rulings. "Thus, it appears that the whole church court structure is built on sand" (Runde 1993).

5.18.1 Summary

The most interesting aspect of the 1993 GAPJC, in the Hope ruling, was the majority ruling that, although the ordinations were irregular, it would not be annulled and the officers would not be removed from office. This case, in itself, set a precedent for the church. Despite the 1978 and 1979 "definitive guidance" statements and affirmations thereof in Authoritative Interpretations, General Assembly decisions, GAPJC rulings,

and constitutional law, the ordination of self-affirming, practicing gay and lesbian Christians as deacons occurred and were even upheld by the highest church court.

Thus, one could argue in the ordination debate that it was possible, both before 1997 and after 1997, when G-6.0106b was incorporated into the *Book of Order*, for a session to examine, ordain, and/or install partnered gay and lesbian Christians to office. Their ordination and/or installation might be irregular, but could not be revoked, in accordance with G-14.0203 (currently G-14.0210). In all the years, the Presbyterian Church has never revoked anyone's ordination and/or installation. Unfortunately, this would lead to the occasional practice of quick examinations and ordinations and/installations before complaints could be filed with the presbytery, such as in the case of Edwards in the McKittrick ruling (see Chapter 5.39).

5.19 The 206th General Assembly of the PC(USA) in 1994

Several overtures from 1993 were referred to the 1994 General Assembly, as well as new overtures and commissioner's resolutions, which were received.

5.19.1 Overture on Clarifying the Nature of the "Definitive Guidance" Regarding Ordination

The Presbytery of Heartland sent Overture 93-111 in 1993, requesting the General Assembly to consider the 1978 "definitive guidance" to be guidance, but not binding (PC(USA) Minutes 1993:908). They argued that the 1978 General Assembly of the UPCUSA did not intend the "definitive guidance" to be binding on sessions and presbyteries (:907).

The presbytery believed the 1985 GAPJC, in the Blasdell ruling, went against the intent of the 1978 General Assembly in finding the statement binding, thus removing the constitutional right of all members to hold office (PC(USA) Minutes 1993:908). The overture was referred to the General Assembly of 1994 (:36) and referred to the ACC (PC(USA) Minutes 1994:80). The ACC replied to Overture 93-111 with the

reply it had given regarding "definitive guidance" in 1993 (PC(USA) Minutes 1994:198, cf. PC(USA) Minutes 1993:322). The ACC advised the General Assembly not to adopt the overture, but to answer it with the action taken by the 1993 General Assembly in adopting the resolution of the RCHS (PC(USA) Minutes 1994:80, cf. PC(USA) Minutes 1993:76-77). The General Assembly adopted the recommendation of the ACC (:80). Thus, the 1994 General Assembly reaffirmed "definitive guidance" had become Authoritative Interpretation.

5.19.2 Overture on Amending the GAPJC Ruling in *Sallade, et al. v. Presbytery of Genesee Valley*

The Presbytery of Baltimore sent Overture 93-114 in 1993, requesting the GAPJC ruling in the Sallade decision be amended. It was referred to the 1994 General Assembly (PC(USA) Minutes 1993:909) and dealt with by the ACC (PC(USA) Minutes 1994:80). The overture asserted that the Sallade ruling distorted and undermined Presbyterian polity by giving "definitive guidance" the same standing in law as the Constitution; elevating it to constitutional status; not exercising mutual forbearance per the fifth historic principle; and giving the GAPJC equal or even superior standing than the acts of the General Assembly itself (PC(USA) Minutes 1993:909).

Baltimore believed the Sallade ruling was in error. First, the GAPJC afforded "definitive guidance" constitutional status not justified by either the document or the process by which it was adopted. The document itself made no claim to be an interpretation of the Constitution, as subsequent readings have done, and did not use the term "guidance" to mean mandatory. Nor did the 1978 General Assembly of the UPCUSA initiate a constitutional amendment process. Second was the issue of language in the *Book of Order*. The phrase from 1978, "it is indispensable," generally considered to be a requirement, was changed in 1983 with the reunion of the UPCUSA and PCUS to "must" and "shall," meaning advice or guidance, and not mandate. The GAPJC ruling elevated it to the status of a mandate. Third, the GAPJC ruling disregarded the mandate that "definitive guidance" would not negatively affect the ordination of those ordained prior to 1978 (PC(USA) Minutes 1993:909).

The presbytery also asserted that the General Assembly had the right, in the case of an error, to review, amend, and rescind the action of the GAPJC (PC(USA) Minutes 1993:909). *Robert's Rules of Order,* Section 34 included the motion to "Amend Something Previously Adopted;" thus, the General Assembly could undo the action of the GAPJC (:910). Lastly, despite the decision since 1973 (cf. UPCUSA Minutes 1973:231) that the decisions of the GAPJC did not need the affirmation of the General Assembly, it did not deny the General Assembly the right to review (PC(USA) Minutes 1993:910).

The ACC recommended that the General Assembly answer Overture 93-114 with the response to Overture 93-111 and not adopt it (PC(USA) Minutes 1994:198), and it complied (:78). Despite all the arguments set forth by the overture, "definitive guidance" had become Authoritative Interpretation through GAPJC rulings, and practicing homosexuals could not be ordained. The issue regarding the status of Spahr, after the Sallade ruling, and those ordained before 1978 covered by Recommendation 14 of 1978, was not answered directly. Indirectly, the General Assembly in 1993 and 1994, through its ACC, stated that no practicing gay or lesbian could be ordained (and/or installed).

5.19.3 Overture on Amending W-4.9001 Regarding Same-Gender Unions

The Presbytery of Southern New England sent Overture 93-99 in 1993, but it was received too late, and was referred to the 1994 General Assembly. The overture requested the General Assembly to amend W-4.9001 by adding at the end of the paragraph:

> Therefore it is inappropriate for ministers to participate in the blessing of any same-sex unions (PC(USA) Minutes 1993:926).

The ACC advised the General Assembly not to adopt Overture 93-99 (PC(USA Minutes 1994:186), basing their decision on the 1991 ACC recommendation, which the 1991 General Assembly approved (cf. PC(USA) Minutes 1991:395), as well as the 1993 ACC reply to Overture 92-123, which the 1993 General Assembly approved (cf. PC(USA) Minutes 1993:310). The ACC believed the overture equated the

blessing of same-gender unions with Christian marriage. The proposed addition would not be mandatory anyway, but simply suggest what ministers could do (PC(USA) Minutes 1994:186; 1993:310). The opinion of the ACC was that Overture 93-99 would add nothing which was not already in the *Book of Order* (PC(USA) Minutes 1994:186).

However, the General Assembly did not accept the recommendation of the ACC, but followed the recommendation of the Assembly Committee on Theological Issues and Institutions, Faith, and Worship to approve it. A motion on the floor to replace the word "inappropriate" in the overture with "not permitted" was approved by a vote of 248-222. The General Assembly approved the amended overture with a 249-207 vote (Sniffen 1994:1):

> Therefore it is not permitted for ministers to participate in the blessing of any same-sex unions (PC(USA) Minutes 1994:42).

"Not permitted" is a strong prohibition in the *Book of Order*, which does not have such language. The General Assembly vote, if approved by the majority of the presbyteries, would not permit ministers to participate in same-gender unions.

Although the amended overture did not mention marriage, it was already included under W-4.9001: only a man and a woman could be married by a minister. The wording and scope of what was impermissible was expanded, but were same-gender blessings permissible? The consensus was that this overture barred clergy from participating in virtually any ceremonial practice that would appear to sanction or bless same-gender relationships (Christian Century 1994:634). Thus, for Presbyterian ministers, it would not be merely "inappropriate," but "not permitted" to participate in same-gender blessings, unions, and marriages.

It is difficult for this writer to determine why the General Assembly, in this instance, did not follow the recommendation of the ACC, when the same issue had been dealt with before by an earlier ACC, and the same recommendation given to an earlier General Assembly. The Minutes of the General Assembly do not reflect the discussion or mood of the meeting, or even of the voting, but merely reflect the outcome of any given decision.

However, Amendment E, also known as the Holy Union Ban Amendment, failed to receive 86 necessary votes from the presbyteries, with a vote of 73-62 and 27 presbyteries taking no action (PC(USA) Minutes 1995:117). Thus, Presbyterian ministers, according to the 1991 Authoritative Interpretation, could participate in same-gender blessings or holy unions, as long are they were not the same as marriages. Since W-4.9001 specified that marriage was only between a man and a woman, Presbyterian ministers could not perform same-gender marriages. The question remained whether W-4.9001, combined with the 1991 Authoritative Interpretation, based on the advice of the ACC, explicitly forbid ministers from performing same-gender marriages or was it not proper to perform them?

5.19.4 Overtures on Amending G-6.0106

The ordination debate started to heat up in 1993 when Overtures 93-117, 93-120, 94-3, 94-16, 94-23, and 94-25 asked that G-6.0106 be amended by adding parts to the existing paragraph or adding a "b" part to become G-6.0106b. G-6.0106b has become the key section in the *Book of Order* in the struggle to keep partnered gay and lesbian Christians out of ordained positions. Since 1993, a battle has ensued which still threatens to tear the PC(USA) apart. All overtures and commissioners' resolutions to add G-6.0106b into the *Book of Order* were attempts to set national standards for ordination and make implicit what both General Assemblies have voted on, and GAPJCs have ruled upon. Conservatives wanted more than merely "definitive guidance" statements of 1978 and 1979 and Authoritative Interpretations of ordination standards.

The Presbytery of Savannah sent Overture 94-3, requesting that G-6.0106 be amended by adding a new paragraph "b":

> b. Those called to office are to lead a life in obedience to Scripture and to the historic confessional standards of the Church. These standards require fidelity within the covenant of marriage (see W-4.9001) or celibacy. Any persons engaging in unrepentant behavior that does not accord with these standards shall not be ordained or hold office as deacons, elders, or ministers of the Word and Sacrament (PC(USA) Minutes 1994:497).

The Presbytery of Charleston-Atlantic sent Overture 94-25, requesting that G-6.0106 be amended by adding a new paragraph "b":

> b. Those who are called to office in the church are to lead a life in obedience to Scripture and in conformity to the historic confessional standards of the church. These standards require fidelity within the covenant of marriage (W-4.9001), or celibacy. Persons engaging in conduct that does not accord with these standards shall not be ordained and/or installed as deacons, elders, or ministers of the Word and Sacrament (PC(USA) Minutes 1994:508).

Overture 94-25 differed from Overture 94-3: it did not mention "unrepentant behavior," but merely "conduct." The reasoning for the recommendation was more generic and did not once mention homosexuality, but all sexual lifestyles that "conform to contemporary society's lifestyle" (PC(USA) Minutes 1994:508).

The ACC recommended the General Assembly answer all overtures with the response to Overture 94-3; not to adopt any (PC(USA) Minutes 1994:191). The General Assembly, however, did not follow the guidance of the ACC. A majority recommendation from the Church Orders and Vocation Committee (COVC), which supported Overture 94-25 by a vote of 31-26, recommended the General Assembly accept it. But, the General Assembly, by a vote of 357-176, approved a minority report from the COVC (Van Marter 1995a). The Christian Century (1994:633) reported the majority report was widely perceived to be an effort to impose celibacy requirements on gay [sic - and lesbian] clergy [sic - officers], despite the supporters of the proposal stating that it was not an anti-gay initiative.

An amended form of Overture 94-25 was sent as a resolution to the presbyteries for their vote. The resolution was not to have a G-6.0106b, but to strike the sentence in G-6.0106, "Their manner of life should be a demonstration of the Christian gospel in the Church and in the world" and replace it with, "Their manner of life should be a demonstration to the church and the world of the Christian faith and life as defined by Scripture and the Confessions" (PC(USA) Minutes 1994:67).

This resolution, called the Church Officer Lifestyle Amendment, used more generic language and did not specifically name fidelity or chastity, or unrepentant sin. It showed compromise from the commissioners to not specifically define what sexual conduct for officers was permissible. Thus, it was no surprise that the overture failed

to achieve the 86 necessary votes with a vote of 80-80 and three presbyteries taking no action (PC(USA) Minutes 1995:117).

5.19.5 Overture on Correcting an Erroneous Action by the GAPJC

The Presbytery of Cayuga-Syracuse sent Overture 93-125 in 1993, stating that the 1992 GAPJC erred in its Sallade ruling in changing the force and intent of "definitive guidance" and ignoring Recommendation 14 of 1978; namely, the rights of anyone ordained before 1978 would not be negatively impacted. The GAPJC gave no reason why Recommendation 14 was solely a grant for amnesty for past acts and did not honour prior ordinations (PC(USA) Minutes 1993:915).

The overture requested the General Assembly to reaffirm that only one paragraph in 1978 was intended to be binding upon lower governing bodies, and it did not limit the ordination right of those ordained prior to 1978 (PC(USA) Minutes 1993:916). It also asked the General Assembly to repudiate as error the GAPJC interpretation that the COM must advise whether an ordained pastor meets the requirements for ordination [sic - installation] (:915). The overture was referred to the 1994 General Assembly (:36).

The ACC recommended the General Assembly respond to Overture 93-125 with the ACC reply to Overtures 93-111 and 94-1 and not adopt it (PC(USA) Minutes 1994:199). The General Assembly adopted the recommendation of the ACC and answered Overture 93-125 with the answer to Overture 93-111 only (:80). The disappointing part of this process is that Overture 93-125 raised some excellent points, but the ACC did not discuss any of them, either in answering Overture 93-111, when they merely repeated the 1993 ACC recommendation regarding "definitive guidance" (:198), or in the reply to Overture 94-1 (:186-187).

Thus, the ACC did not make a single comment regarding the Sallade decision of 1992, despite the fact that Spahr was "grandfathered in" as someone ordained prior to the "definitive guidance" of 1978 under Recommendation or Paragraph 14. It only spoke about self-affirming homosexuals not being able to be ordained, as was the

case with the candidate Larges. The ACC did not address the installation of self-affirming gay and lesbian Christians. Spahr was already ordained in 1974, but could not be installed in a new call. In fact, the 1992 ACC stated that it could not comment on the Spahr case from the Sallade ruling since it was a judicial case (PC(USA) Minutes 1992:309).

One is left with the question, how can the decision by a GAPJC be reversed or amended? The General Assembly, as will be seen in Overture 93-37 (see Chapter 5.19.6) no longer had that purview. The only remedy might be through an overture asking a ruling be amended or reversed by the General Assembly. This, however, is problematic, since the ACC deals with all overtures regarding the Constitution and ordination. The best recourse would be that a next GAPJC could make a different ruling, but this is highly unlikely, since members serve for six-year terms. Thus, much like the United States Supreme Court, their decision is final and can only be amended or reversed through a decision by a future court.

5.19.6 Overture on Amending D-8.1600 to Provide for Accountability of the GAPJC to the General Assembly

The Presbytery of Albany sent Overture 93-37 in 1993 (see Chapter 5.17.6), and an almost identical Overture 94-1 in 1994, on amending D-8.1600 (PC(USA) Minutes 1994:496). Two presbyteries concurred (:497). The ACC replied that, in 1993, it noted that the *Book of Order* assigned non-overlapping roles to the General Assembly and GAPJC due to the delay of judicial process in the past (PC(USA) Minutes 1993:314). The ACC reaffirmed its answer from 1993, and added eleven questions which were left unanswered by suggested changes in D-8.1600 (PC(USA) Minutes 1994:187).

The reply by the ACC showed the impracticality of the General Assembly reviewing all preliminary GAPJC rulings. The best way to challenge a ruling regarding the Constitution would still be through overtures and commissioners' resolutions, which were referred to the ACC. However, two problems existed. The ACC advised the General Assembly on constitutional changes and, up to 1994, rejected most overtures

regarding constitutional change. As shown in the previous overture, the ACC stated in 1992 that it could not comment on the Spahr case from the Sallade ruling, since it was a judicial case, and would not comment on GAPJC rulings in general (PC(USA) Minutes 1992:309).

The ACC was the committee responsible for advising the General Assembly on the Constitution; yet, when the GAPJC made unconstitutional rulings, the ACC merely stated it could not comment on GAPJC rulings, nor could the General Assembly review the decisions by the GAPJC, as was the case before 1972. In 1993 and 1994, the ACC stated the only recourse was to change judicial process and laws, but these changes still had to go through the ACC! (see PC(USA) Minutes 1993:314, 316; Overtures 93-33, 93-37).

5.19.7 Overture on Declaring Paragraph 14 of 1978 an Authoritative Interpretation

The Presbytery of Heartland sent Overture 94-4 stating, that the 1992 GAPJC, in the Sallade ruling, had violated the promise made by Paragraph 14 of the 1978 policy statement. Additionally, the General Assembly, in 1993, called the church to study and dialogue with gay and lesbian people. The overture requested the General Assembly to declare the following: First, Paragraph 14 of the policy statement in 1978 regarding ordination of homosexual persons had the status of Authoritative Interpretation of the Constitution. Second, to give constitutional guarantee to those ordained prior to the 1978 action that no provision should be used to affect negatively their right to accept a call or be installed (PC(USA) Minutes 1994:498).

The ACC replied with its 1993 recommendation on the three ways in which an Authoritative Interpretation of the *Book of Order* could occur (cf. PC(USA) Minutes 1993:76, 322). The Sallade ruling was the latest Authoritative Interpretation of the *Book of Order*, stating that Recommendation 14 provided amnesty from past acts, but was not a license for present or future acts (:168). Regarding the first request, the ACC continued that if a new interpretation of the *Book of Order* was to be offered, it should clearly specify what was to be the new interpretation of the General

Assembly. The ACC claimed the statement of 1978 was not adequate to accomplish this, due to subsequent interpretation of the statement and decisions by the GAPJC since 1978 (PC(USA) Minutes 1994:188).

This is incredulous. The GAPJC could misinterpret the meaning and scope of Recommendation 14, yet their interpretation was an Authoritative Interpretation, despite it contradicting the clear intent of the original recommendation. Again, the ACC would not speak out against the Sallade ruling and the constitutionality of its reinterpretation of the limited scope of Recommendation 14 of 1978.

Regarding the second request, the ACC criticised the overture for not specifying which paragraphs in the *Book of Order* might be amended to accomplish the guarantee sought regarding prior ordination (PC(USA) Minutes 1994:188). The ACC recommended the General Assembly not approve the overture (:189) and it disapproved the overture (:67).

5.19.8 Request for an Interpretation of G-14.0203 and the Ordination of Homosexuals

The Session of Hope Presbyterian Church in Portland, Oregon (Hope) sent Request 94-9, asking the ACC to give an interpretation of the 1993 GAPJC ruling in the Hope decision. Hope argued that the GAPJC affirmed the presbytery ruling that the ordinations were “irregular” and, thus, erroneous. The 1985 Blasdell ruling showed it to be unconstitutional. Hope contended that the ordinations were unconstitutional and invalid (PC(USA) Minutes 1994:202). The ACC responded that it could not interpret the decisions of the GAPJC. Unclear issues could be clarified through an amendment to the *Book of Order*; the written ruling of the GAPJC; or an Authoritative Interpretation by the General Assembly, with such requests first being referred to the ACC (:195-196).

However, the ACC could answer the specific questions of the request. 1) Could self-affirming, practicing homosexuals be ordained? The most recent interpretation of the GAPJC was the Hope ruling. The ACC did not answer the question. The GAPJC

found the ordination of two self-affirming, practicing homosexual persons as deacons was irregular, but did not annul it. 2) Could such persons constitutionally be ordained? The 1993 General Assembly reaffirmed with its Authoritative Interpretation that it was not permissible. 3) If such an ordination did occur, could it be annulled? Under G-14.0203 (currently G-14.0210) the ordination could be annulled and the person removed from office, either through a remedial or disciplinary case. Although ordination was perpetual, an officer could voluntarily lay their office aside under G-14.0211 (currently G-6.0600) or through judicial process. The ACC recommended that this reply be used to answer the request (PC(USA) Minutes 1994:196) and the General Assembly complied (:65).

The ACC provided an interpretation of G-14.0203 (currently G-14.0210) that neither the PJCs of the presbytery, synod, or General Assembly in the Hope ruling found; namely, the ordination of a self-affirmed, practicing homosexual person could be annulled. In essence, this response stated the GAPJC had made a mistake in their ruling.

5.19.9 The Presbyterian Lay Committee

The General Assembly directed the Moderator to establish a Special Committee on Reconciliation with the PLC. This third committee in ten years was charged “to work with the lay committee to determine appropriate boundaries for the work of the lay committee; to encourage their faithful commitment to the peace, unity, and purity of the church; and to work collaboratively in this most important task with all middle governing bodies” (PC(USA) Minutes 1994:46).

The Special Committee, consisting of GAC members, the Moderator, the Stated Clerk, and others, met four times with the PLC, and all communication broke down after the last meeting. The PLC sent copies of their document, *Honoring Boundaries of Reformed Faith and Practice*, to every clerk of session in the denomination (about 11,000). A letter accompanied it condemning staff of the head office of the PC(USA). The document, for instance, wanted to impose its interpretations on the

confessional standards of the church and wanted a loyalty oath from all GAC staff (PC(USA) Minutes 1995:172).

The Special Committee summarised it well:

> It is time to call into question the tactics of a self-appointed group that wants to function as a theological watchdog of the Presbyterian church [sic] without being willing to subject itself . . . through the governing bodies of the church. It is time for the PLC to end its destructive tactics and its vitriolic and unending attack upon men and women who are seeking to do God's work through the offices of the PC(USA) (PC(USA) Minutes 1995:173).

The 1995 General Assembly noted that it had no jurisdiction over the PLC, since the 1991 General Assembly removed jurisdiction by dissolving the relationship with Chapter IX organisations (PC(USA) Minutes 1995:52). Therefore, it did not approve the Committee's recommendation that it meet annually for three years with the PLC (:173), but dismissed the Committee. The Assembly Committee on the Report on Reconciliation noted that the report was non-punitive and the General Assembly "shall not take up the topic again" (:52). This strife, which the PLC caused, continued and the issue would be dealt with again in 1996 (see Chapter 5.23.4).

5.19.10 Summary

The General Assembly chose the path of ambiguity (Christian Century 1994:633). It voted to send two amendments to the presbyteries for their vote. The "Holy Union Ban" Amendment would bar ministers from participating in any same-gender unions:

> Therefore it is not permitted for ministers to participate in the blessing of any same-sex unions.

The *Book of Order* already defined marriage as between a man and a woman in W-4.9001, and it implied that a same-gender marriage could not be performed. The scope of what ministers were not permitted to participate in was expanded to include a same-gender union, and, by definition, any same-gender blessing of a relationship.

The "Holy Union Ban" Amendment failed to receive sufficient votes. Presbyterian ministers could still participate in same-gender blessings or holy unions, as long as they were not the same as marriages. Since W-4.9001 specified that marriage was

only between a man and a woman, Presbyterian ministers could not perform same-gender marriages.

The General Assembly, however, did not impose a celibacy requirement on gay and lesbian, or single officers. A second resolution, the "Church Officer Lifestyle" Amendment, regarding the acceptability of officers, was sent to presbyteries. The commissioners decided not to drastically amend G-6.0106 or add a "b" portion, but only to slightly amend a sentence:

> Their manner of life should be a demonstration to the church and the world of the Christian faith and life as defined by Scripture and the Confessions.

The resolution used more generic language and did not specifically name fidelity or chastity, or unrepentant sin. It also did not specifically define what sexual conduct for officers was permissible. This resolution was such a middle-ground gesture that it ultimately failed, when it did not receive the necessary votes from the presbyteries to become an amendment to the *Book of Order*.

5.20 The GAPJC Ruling in *Session of Mount Auburn Presbyterian Church v. Presbytery of Cincinnati.* Remedial Case 207-8 in 1995

The Session of Mount Auburn Presbyterian Church in Cincinnati, Ohio (Mt. Auburn) developed a *Policy on the Inclusion of Gays and Lesbians* (Policy). The Policy was adopted on 19 December 1991, and stated, in part:

> Therefore, we are gratefully open to the service and leadership of gays and lesbians including those called to ordained positions in our congregation (Mount Auburn 1991:3).

The Policy was sent by the session to the Presbytery of Cincinnati (Presbytery), and after review, the Ecclesiastical Affairs Committee (EAC) recommended a meeting with Mt. Auburn to review and to determine whether the Policy was consistent or reconcilable with the policy of the denomination. The EAC determined that the session was "knowingly in defiance of the established 'definitive guidance' and by its adoption of the policy on 'Inclusion of Gays and Lesbians,' Mt. Auburn had committed an 'irregularity'" (PC(USA) Minutes 1995:125).

The EAC recommended the session reconsider its policy statement. The session requested the presbytery to establish a special administrative review committee to consider this question more thoroughly. However, the EAC recommended the presbytery find the session had committed an irregularity and direct the session to reconsider its action. After several meetings, the presbytery, in November 1992, affirmed the decision of the EAC that Mt. Auburn had committed an irregularity and asked the session to reconsider and correct its irregularity (PC(USA) Minutes 1995: 126).

Mt. Auburn decided in good conscience to reaffirm their policy from 1991. In January, they ordained an elder who was a self-affirmed homosexual. At the May 1993 presbytery meeting, the EAC recommended that an administrative commission be established to review the situation at Mt. Auburn; it was approved. When a presbytery puts an administrative commission in place in a congregation, it is an extreme step. This commission has the power of the presbytery and can ask the presbytery to vote to assume original jurisdiction from a session, thus replacing the leadership of a congregation with elected commissioners (PC(USA) Minutes 1995: 126).

Mt. Auburn filed a complaint with the PJC of Synod of the Covenant (SPJC), claiming the presbytery's action to appoint the administrative commission was irregular. The SPJC, in November 1993, did not sustain the complaint, but removed Rev. P Hartsock from the administrative commission, who had vocally declared the session's action an irregularity. The SPJC, however, sent undated and unsigned copies of the decision, and later sent papers signed by seven SPJC members. Both the session and presbytery appealed the SPJC decision (PC(USA) Minutes 1995:126).

The GAPJC did not sustain Mt. Auburn's four specifications of error. They sustained the presbytery's specification of error that Hartsock should not have been removed from the administrative commission, and reversed the SPJC ruling, but affirmed the SPJC ruling that the appointing of an administrative commission was not irregular (PC(USA) Minutes 1995:127-128).

5.20.1 Summary

The 1995 GAPJC in the Mt. Auburn ruling reaffirmed both the Presbytery of Cincinnati and the PJC of Synod of the Covenant decisions that Mt. Auburn had acted irregularly and an administrative committee should be put in place. The question remains what the administrative commission did in regard to the irregular ordination. The current minister, Rev. S Q Bryan, responded to this writer's inquiry that the administrative commission was eventually dismissed and Mt. Auburn was determined to be "irregular," but nothing more was done by the presbytery. Mt. Auburn, to this day, continues to openly defy the Constitution in ordaining and/or installing partnered gay and lesbian Christians, without any ordinations having been revoked.

The minister at that time, Rev. A S Van Kuiken, would also perform same-gender marriages with the permission of the session of Mt. Auburn, and become the most talked-about Presbyterian minister to openly defy the Constitution. Charges against him and the accompanying judicial cases would dominate the church's news for years (see Chapter 5.43).

5.21 The 207th General Assembly of the PC(USA) in 1995

The 1995 General Assembly only received a few overtures, possibly due to the study results being anticipated to come to the 1996 General Assembly meeting. A three-year period of study was called for by the 1993 General Assembly.

5.22 The GAPJC Ruling in *Session of Central Presbyterian Church of Huntington, NY v. Presbytery of Long Island.* Remedial Case 208-4 in 1995

The pastor of the First Presbyterian Church of Sag Harbor, New York (Sag Harbor) allegedly stated at a meeting of the Presbytery of Long Island in May 1993 that her congregation had recently ordained two homosexual members to the office of elder

and deacon. The Session of Central Presbyterian Church of Huntingdon, New York (Central) sent a letter in February 1994 to the presbytery alleging these ordinations were made by Sag Harbor with full knowledge. Central believed the ordinations constituted irregularities which were subject to review and correction by the presbytery. Central requested the presbytery take corrective action at its next meeting with respect to these two ordinations (PC(USA) Minutes 1996:173).

The presbytery's Council directed its Stated Clerk to write to Sag Harbor and ask it to comment on the accuracy of the statement that ". . . the two persons who were ordained are self-affirming, unrepentant practicing homosexuals . . . ." The Stated Clerk requested a response be made to the presbytery's Council before its May 1994 meeting. However, in March, the presbytery voted not to concur in the action of its Council, directed the Council to take no further action in the matter, and directed Sag Harbor to make no response to the Council's prior letter request. The presbytery voted to send a statement explaining its actions to all of its sessions stating that "at this time" the request for corrective action "hampers the process of dialogue" regarding human sexuality, a dialogue called for by the 1993 General Assembly (PC(USA) Minutes 1996:173).

Central filed a remedial complaint with the SPJC in June 1994, asserting that the presbytery's actions constituted an irregularity. The complaint requested the presbytery be directed to investigate the ordinations; correct the irregularities; if, upon investigation, the allegations were found to be truthful, to rescind the ordinations and remove the individuals from office; and to direct the presbytery and Sag Harbor to remain in compliance with the Constitution. The SPJC found no grounds to sustain the complaint and dismissed it; Central appealed to the GAPJC (PC(USA) Minutes 1996:173).

The sole issue addressed by the SPJC and by its decision was: What is the responsibility of a presbytery to respond to a request made to it from a session regarding allegations of an alleged irregularity by another session? (PC(USA) Minutes 1996:173-174).

Central specified five errors in regard to the SPJC ruling. First, the SPJC erred in holding that there were no grounds to sustain the complaint. The GAPJC did not sustain the specification. The presbytery under D-3.0200 “may” require the lower governing body to produce any records and take appropriate action. The GAPJC held that “may” should be understood as a permissive term, and granted discretion to the governing body. Thus, a governing body may decline to respond to an inquiry. The presbytery stated that its reason was that such an action would hamper the process of dialogue regarding issues on human sexuality called for by the 1993 General Assembly. The presbytery was within its constitutional discretion, and considered that remedial or disciplinary action would not have been productive (PC(USA) Minutes 1996:174).

Second, the SPJC erred in holding that there was no evidence to indicate that the presbytery had violated G-11.0103t(2) by failing to investigate an alleged violation of the orders of the General Assembly and the GAPJC, prohibiting the ordination of homosexuals to the offices of elder and deacon. The specification was not sustained and answered by the reply to specification one (PC(USA) Minutes 1996:174).

Third, the SPJC erred in holding that the presbytery acted appropriately in determining not to investigate an alleged irregularity as part of the presbytery’s responsibility and authority to conduct administrative review of constitutional violations occurring within its jurisdiction. The specification was not sustained and answered by the reply to specification one (PC(USA) Minutes 1996:174).

Fourth, the SPJC erred in holding that if a session requested a presbytery to conduct an investigation of an alleged irregularity by another session, and provided the presbytery information supporting its allegation, D-7.0000 (conducting a trial) should have been followed instead of the remedial case provisions of D-6.0000. The specification was not sustained and answered by the reply to specification one (PC(USA) Minutes 1996:174).

Fifth, the SPJC erred in its interpretation of D-3.0200 in permitting a presbytery to refuse to conduct an investigation. The specification was not sustained and answered

by the reply to specification one. The GAPJC affirmed the decision of the SPJC, thus, also the decision of the presbytery (PC(USA) Minutes 1996:174).

Seven members concurred with the majority, but believed it was erroneous for a presbytery to take action against a session for the ordination of officers solely because such officers were self-affirming, practicing, and unrepentant homosexual persons. They believed the 1978 and 1979 policy statements on the ordination of such persons and subsequent reaffirmations and judicial decisions, which had been treated as Authoritative Interpretation (G-13.0103r), were adopted in violation of the Constitution (PC(USA) Minutes 1996:175).

They specified five reasons. First, the *Special Commission of 1925* held that the powers of the General Assembly were "specific, delegated, and limited" and therefore must be "enumerated and defined." This principle has been followed in subsequent cases which have held that the General Assembly may not substitute its judgment for that of the ordaining body and ought not to abridge the powers of ordaining bodies, except in the most extraordinary situations and reasons, e.g. *Anderson, et al. v. Synod of New Jersey* in 1962 and *Rankin, et al. v. National Capital Union Presbytery* in 1981 (PC(USA) Minutes 1996:175).

Second, G-6.0106 granted sessions the responsibility to apply the constitutional standards in the examination, ordination, and installation of elders and deacons. The 1978 Statement usurped this authority and substituted its judgment for that of individual sessions, and such action was unconstitutional. Third, the 1978 Statement was an arbitrary standard, and precluded sessions from carrying out their responsibilities in applying constitutional standards for examination, ordination, and installation of elders and deacons (PC(USA) Minutes 1996:175).

Fourth, G-6.0108a spoke about officers adhering to the essentials of Reformed faith and polity. However, the conclusion reached in the 1978 Statement could in no way be considered to be an "essential" of the Reformed faith and polity, and as Authoritative Interpretation, unconstitutionally hindered officers in legitimately exercising freedom of conscience in respect to the interpretation of Scripture (PC(USA) Minutes 1996: 175).

Fifth, the 1978 Statement was provided as a "definitive guidance." This was different from a requirement established through an Authoritative Interpretation. The *Book of Order* could not be amended by a "definitive guidance." The dissenters argued that GAPJCs have erred in treating the 1978 Statement as an Authoritative Interpretation or properly enacted amendment of the Constitution, e.g. *Blasdell, et al. v. Presbytery of Western New York* in 1985, and the General Assembly adopting the report of the ACC in 1993 (PC(USA) Minutes 1996:175). The ACC based its 1993 report on the GAPJC's erroneous ruling in Blasdell and subsequent decisions, that the 1978 Statement was an Authoritative Interpretation of the Constitution (cf. PC(USA) Minutes 1993:322).

"Blasdell was wrongly decided and, like a house built on a foundation of sand, what has followed in reliance on Blasdell and its progeny is equally flawed and cannot stand" (PC(USA) Minutes 1996:175). They charged the General Assembly to change or amend the constitutional law of the church, in accordance with the *Book of Order*, through established process for amendments (ibid). Thus, to prevent the ordination of partnered gay and lesbian Christian officers, a constitutional amendment was needed (see Bullock 1995).

Three members dissented from the majority. They believed the SPJC ruling should have been overturned (PC(USA) Minutes 1996:175). They argued that the interpretation of "may" in the majority's argument interpreted a governing body's discretionary power more broadly than the Constitution provided. If "may" in D-3.0200 meant "has the power to," and D-3.0300 used "shall," they believed D-3.0300a(5) "requires" a presbytery to determine whether the lawful injunctions of a higher governing body have been obeyed. The dissenters concluded that the majority too narrowly focused upon D-3.0200 and missed D-3.0300 (:176).

5.22.1 Summary

The 1995 GAPJC ruling, in *Session of Central Presbyterian Church of Huntington, NY v. Presbytery of Long Island*, once again was an interesting verdict. For the second time, the ordination of self-affirming, practicing homosexual persons was not

annulled after the fact, but confirmed by the GAPJC, albeit the reason given was that the church was in a three-year period of study and discernment. The 1993 GAPJC Ruling in *Hope Presbyterian Church v. Central Presbyterian Church* also did not revoke the ordination of a gay and lesbian as deacons which had already taken place (see Chapter 5.18). Thus, in the Central and Hope cases, the ordinations of deacons, having occurred, stood. In the 1985 Blasdell ruling, there was no ordination, but the intent to ordain self-affirming practicing homosexual persons was denied. In the 1993 Sallade case, a partnered lesbian minister, Rev. Jane Spahr, was denied installation.

Again, seven of the eighteen members of the highest judicial court of the PC(USA) stated that the 1985 GAPJC in the Blasdell and subsequent rulings, and the ACC in its 1993 report - based on Blasdell ruling – which interpreted that the 1978 "definitive guidance" had, in effect, become Authoritative Interpretation, was in violation of the Constitution. If such a huge portion of the highest judicial court disagreed with the way "definitive guidance" had become Authoritative Interpretation, by not amending the *Book of Order* through proper enacted amendments, it reflected the concerns of both presbyteries and sessions who had to enforce the policy. This dissenting opinion's concern would soon be answered by the overtures sent to the 1996 General Assembly to amend the *Book of Order* and clearly state in G-6.0106 what both the 1978 and 1979 "definitive guidance" and 1993 Authoritative Interpretation stated, namely that self-affirmed, practicing homosexual persons could not be ordained.

Thus, it would seem on the surface that candidates for office could not "self-affirm" and be ordained and/or installed, and sometimes self-affirming, practicing homosexual persons were ordained and/or installed, and it could be either approved or denied through judicial decisions. All of this would change in 1997 with the amended G-6.0106 being included in the *Book of Order*. Constitutional law, and no longer merely "definitive guidance" or Authoritative Interpretation, would prohibit self-affirming, practicing (partnered) gay and lesbian Christians from being ordained and/or installed as officers.

5.23 The 208th General Assembly of the PC(USA) in 1996

Despite the 1978 and 1979 "definitive guidance" and 1993 Authoritative Interpretation that self-affirming, practicing homosexual persons were not ordainable, the question existed whether the Constitution was explicit about it. About 75 congregations stated they would ordain gays and lesbians as officers (Van Marter 1996a). The 1996 General Assembly meeting marked the pinnacle of the battle to include ordination standards in the *Book of Order* and into the Constitution, to prohibit partnered gay and lesbian Christians from serving as ordained officers, notably through amending G-6.0106 and/or G-6.0108b.

Therefore, in May 1996, thirty Presbyterian seminary professors wrote a letter to all General Assembly commissioners, *The Whole Bible for the Whole Human Family* (Adam *et al* 1996). They argued that the six biblical passages referring to same-gender relationships seem to advocate values such as hospitality to strangers, ritual purity, or the sinfulness of all human beings before God. They cautioned the church against an interpretation of the Bible that would lead the church into pronouncing judgment upon a specific behaviour of a whole category of people (:2).

5.23.1 Guidance from the ACC

The ACC dealt with forty-six overtures regarding standards for ordination (G-6.0106 and G-6.0108) and G-13.0103r, which defined the process by which the General Assembly authoritatively interpreted the Constitution. The ACC used the 1993 Authoritative Interpretation as its guidance to direct the General Assembly how to proceed with the mass of overtures (see PC(USA) Minutes 1993:322). The ACC reminded commissioners that the current prohibition was not based on statements by the General Assembly, but on GAPJC decisions. If the General Assembly approved a new Authoritative Interpretation, it would not overturn past judicial decisions (PC(USA) Minutes 1996:245). The ACC did not state in 1996, what it had stated in 1993, that this prohibition was based on the 1985 GAPJC ruling in the Blasdell decision. Several members of the GAPJC in past rulings had criticised this ruling as

unconstitutional and being erroneous, e.g. *Hope Presbyterian Church v. Central Presbyterian Church* in 1994.

Again, the "Catch-22" situation of providing an Authoritative Interpretation under the provisions of G-13.0103r in 1993, on the recommendation of the ACC, was highlighted. Potentially, conflict could exist between what the *Book of Order* would state and what previous GAPJC decisions declared, without the General Assembly having the power to bring GAPJC decisions in line with new constitutional law.

Overtures raised the question about the meaning of an Authoritative Interpretation as provided for in G-13.0103r. The ACC advised that whenever the General Assembly acted in accordance with the provisions of G-13.0112, that answer was an Authoritative Interpretation (PC(USA) Minutes 1996: 245). The current Authoritative Interpretation, which stated that self-affirming, practicing homosexuals may not be ordained as officers, was based on GAPJC decisions, not General Assembly decisions. However, a gay or lesbian orientation was not a barrier; only active sexual practice of homosexuality was a sin and prohibited ordination (:246).

The ACC suggested that although typically one proposed amendment is sent to presbyteries for their affirmative or negative vote, there was no constitutional prohibition against sending amendments on both sides of the issue. Therefore, the ACC proposed that presbyteries should have a choice of either: (a) approving or prohibiting ordination of self-avowed, practicing homosexual persons, or (b) defeating both alternatives. Option 1 would add a section "b" to G-6.0106 prohibiting ordination, or Option 2 would add a section "b" to permit ordination of self-affirming, practicing homosexual persons. Option 3 would combine Options 1 and 2 into one action with an "a" and "b," and ask presbyteries to vote affirmative on Option 1 or 2, or in the negative for one or both. Approval of Option 2 or 3b would rescind the 1993 Authoritative Interpretation, but not modify or rescind previous GAPJC decisions (PC(USA) Minutes 1996:246).

The forty-six overtures addressed a wide variety of aspects in the gay and lesbian ordination debate. All were referred to the ACC and it advised the General Assembly on suggested actions on each one. However, all of the overtures were answered by

the action on the amended Overture 96-13 from the Presbytery of San Gabriel, which became G-6.0106b in 1997, after the majority of presbyteries ratified it. Therefore, the other forty-five overtures will not be discussed.

5.23.2 Overture on Amending G-6.0106

The Presbytery of San Gabriel sent Overture 96-13, combining every major decision in the gay and lesbian debate up to that point, to request an amendment of G-6.0106. The 1978 and 1979 "definitive guidance" statements, the GAPJC rulings in the 1985 Blasdell and 1993 Sallade decisions, the 1991 General Assembly decision after rejecting the Report of the Special Committee on Human Sexuality, the 1993 General Assembly affirmation that the 1978 and 1979 "definitive guidance" statements carried the weight of Authoritative Interpretations, all affirmed that self-affirming, practicing homosexual persons should not be ordained (PC(USA) Minutes 1996:686). Since this Authoritative Interpretation policy had not been written into the Constitution, the overture requested the General Assembly to amend G-6.0106 by adding a new paragraph "b":

> Those who are called to office in the church are to lead a life in obedience to Scripture and in conformity to the historic confessional standards of the church. These standards require fidelity within the covenant of marriage between one man and one woman (W-4.9001), or chastity in singleness. Persons engaging in conduct not consistent with these standards shall not be ordained and/or installed as deacons, elders, or ministers of the Word and Sacrament (:687).

The ACC commented that the language was consistent with current constitutional law. The ACC reminded the General Assembly that an effort in 1986 to amend G-6.0106 was disapproved; the 1988 General Assembly stated that the 1978 statement was binding on all governing bodies; and the 1993 General Assembly declared the 1978 and 1979 statements carried the weight of Authoritative Interpretation and were binding on all governing bodies (PC(USA) Minutes 1996:248).

Why did the ACC in this case and with the other similar overtures not warn, although the language was consistent with current constitutional law, it would become a slippery slope to hold out one set of "sexual sins" as carrying heavier weight than

other “sins” to bar persons from ordination? This writer, not having been present at any General Assembly meetings, struggles to understand what possible pressure there might have been on the ACC in 1996 to approve a constitutional change to the *Book of Order*, while in prior years, they had argued against it and the General Assembly had agreed (see PC(USA) Minutes 1986:34, 174, 777).

Did the recent GAPJC rulings and subsequent mass of overtures, along with uncertainty regarding the constitutional force of both the 1978 and 1979 “definitive guidance” and 1993 Authoritative Interpretation, put pressure on the ACC not to reaffirm its earlier strong stances in amending G-6.0106 and/or G-6.0108b, but to suggest, through its silence and statement that the overtures were consistent with current constitutional law, and it would not be inconsistent to include G-6.0106b it in the *Book of Order*?

The Witherspoon Society (1996:1) notes that the overture’s wording of “fidelity in marriage and chastity in singleness” was drawn from the United Methodist Book of Discipline. The previous attempts called for “celibacy,” which means singleness; thus it would have meant “singleness in singleness.” In 1996, most overtures substituted “celibacy” with “chastity.”

The Assembly Committee on Ordination and Human Sexuality (ACOHS) dealt with the results of the three-year study that the 1993 General Assembly had requested. They brought a majority report with amended wording to Overture 96-13 to the General Assembly. The ACOHS vote was 26-17 (Weston 2003:54).

On the floor of the General Assembly, an amendment to the majority report was approved to replace the two occurrences of “marriage of one man and one woman” with “marriage of a man and a woman” (PC(USA) Minutes 1996:79). External sources state that the original wording from the Westminster Confession, which allowed divorce only on the grounds of adultery, and remarriage on the grounds of divorce due to adultery, or the death of a spouse, was replaced to reflect the polity from 1950s which did allow for divorce and remarriage on other grounds (cf. Beuttler 1999).

In the Preamble of the Report, the ACOHS stated:

> . . . now is the time to allow the church at the grass roots through its presbyteries to study and decide whether it is God's will to ordain self-affirming, practicing homosexual persons to the office of deacon, elder, and minister . . . While it may be important for presbyteries and future General Assemblies to discuss matters of polity and interpretation, we are recommending that presbyteries should be asked at this time to discuss and vote on the issue of ordination and sexuality (PC(USA) Minutes 1996:78).

However, Johnston (1996:4) points out that this would make it extremely difficult for the church to change its mind on the issue, since any change would require a constitutional amendment. The conservative moderator of the ACOHS, Rev. R Hestenes, reported to the General Assembly that this was "the right time, the right way, and the right spirit" to deal with the issue (:ibid footnote 5). Johnston (:ibid) rightfully questions if this was the right way to deal with partnered gay and lesbian ordination.

The advocates of this amendment, who claim it also applied to all who were married or single, was undone by the ACOHS' wording:

> Homosexual orientation is not a sin; neither is it a barrier to ordination. However, the refusal to repent of self-acknowledged practice that Scripture, interpreted through the confessions, calls sin, bars one from office (PC(USA) Minutes 1996:79).
> Is homosexual practice sin? . . . Homosexual behavior is listed in the Bible with sins that include adultery, fornication, pride, greed, lust, jealousy, and malice. Although it is not a greater sin than any other, we believe that Scripture, as guided by the confessions, defines such practice as sin (ibid).

There is no doubt in this writer's mind that the intent of amending G-6.0106 by adding a "b" portion was clear; namely, to keep partnered gay and lesbian Christians from ordained office. In the whole Preamble, there was not a single word that this amendment would apply to heterosexuals. The ACOHS mentioned several other sins, but again narrowed the scope down to the sin of homosexual practice, thus limiting the "sin" in G-6.0106b to only homosexual practice. This was the most disingenuous and bigoted attempt to include a provision in the *Book of Order* that sounded like it was far-reaching, yet only targeted a specific group of people.

The ACOHS argued that moral standards for ordained persons were necessarily higher:

> Ordination . . . . requires prayerful discernment . . . of those whose "manner of life" is a "demonstration of the Christian gospel" (G-6.0106) . . . . Where sin

> remains unacknowledged and unrepentant, there can be no ordination. The standards are high (PC(USA) Minutes 1996:79).

Note that G-6.0106 actually stated "should be" a demonstration and not "is." Johnston (1996:7) comments that "should," which allowed freedom, was replaced by "is," which imposed a requirement. The amendment increased the strictness of the ordination standards; earlier they had been less stringent to allow sessions and presbyteries to adapt them to their situations.

Interestingly, the ACOHS noted that it was not their intention to change the church's present standards and polity in relation to divorce and remarriage (PC(USA) Minutes 1996:79). Yet, amendment G-6.0106b smacks of heterosexism. It reminds one that the church changed its long-held view on divorce and remarriage from the Westminster Standards in the Westminster Confession of Faith:

> Marriage is a union between one man and one woman, designed of God to last so long as they both shall live (6.133 *The Book of Confessions*).
> It is the divine intention that persons entering the marriage covenant become inseparably united, thus allowing for no dissolution save that caused by the death of either husband or wife (6.137 *The Book of Confessions*).

The PC(USA) added W-4.9001 in 1983 to reflect that marriage was between a man and a woman, not one man and one woman, allowing those who were divorced and remarried, on other grounds than adultery and death, to remain ordained (cf. Beuttler 1999). The exception made to one group, divorced and remarried heterosexuals, was used in the same sentence to preclude another group, partnered gays and lesbians in committed and fidelity relationships, from ordination and/or installation. The sin of divorce was no longer viewed as sin, yet the sin of monogamous gays and lesbians living in fidelity and chaste relationships would become constitutional law through G-6.0106b. Chastity became a term denoting "not being sexually active," contrary to its meaning in Question and Answer 108 of the Heidelberg Catechism that both married and unmarried persons are to lead chaste and disciplined lives, clearly not referring to sexual activity.

Last, the ACOHS rejected a local option, since it would be "a fundamental, far-reaching, and substantive change in the foundation principles of a connectional church . . . ordination is for the whole church" (PC(USA) Minutes 2006:79). This second proposal, to send an amendment to presbyteries allowing a local option on ordination, had failed earlier in the ACOHS by a 18-31 vote (Weston 2003:54).

The General Assembly, with a 313-236 vote, or 57-43% (Christian Century 1996) approved the amended recommendation of the ACOHS on Overture 96-13 by adding a new paragraph "b":

> b. Those who are called to office in the church are to lead a life in obedience to Scripture and in conformity to the historic confessional standards of the church. Among these standards is the requirement to live either in fidelity within the covenant of marriage between a man and a woman (W-4.9001), or chastity in singleness. Persons refusing to repent of any self-acknowledged practice which the confessions call sin shall not be ordained and/or installed as deacons, elders, or ministers of the Word and Sacrament (PC(USA) Minutes 1996:79-80).

The "fidelity and chastity" amendment to G-6.0106 was sent to the presbyteries for their vote. 57 prominent church leaders sent a letter, *Letter to the Presbyterian Church (U.S.A.)*, to every congregation, criticising the amendment on three main points. They stated that "[w]hen an ideal is reduced to a legal requirement, the spirit of Law has become narrow legalism" (Adams *et al* [2006]).

Finally on 18 March 1997, after a 97-74 approval vote, with two presbyteries taking no action, G-6.0106b passed and became part of the *Book of Order* in June 1997 and constitutional law (PC(USA) Minutes 1997:133). Now there was a clear prohibition in the *Book of Order* and Constitution that sexual activity was only allowed in marriage, and those who did not abide by it were not allowed to be ordained and/or installed.

Unfortunately, since 1997, history has shown that this amendment has, for the most part, only been applied to gays and lesbians to keep them from being ordained officers, rather than setting a so-called standard for everyone in the church. One has to ask: How frequently does a session, COM, CPM, or presbytery ask a heterosexual person about their sexual activity? The church's double standards of having one rule for heterosexuals and another for gays and lesbians would be further perpetuated by G-6.0106b.

5.23.3 A Critical Evaluation of G-6.0106b

Amendment B, as G-6.0106b would be more commonly called, was unclear on the meaning of some words and concepts. Evidence to this fact is the Polity Reflection

Note 12 which the Stated Clerk, Rev. Dr. C Kirkpatrick, and Associate Stated Clerk, Rev. C F Jenkins (1997), sent to all stated clerks and executives of presbyteries and synods in April 1997 in response to the many questions they received regarding Amendment B, when it had already been approved by the presbyteries. Yet, as will be evident from the discussion below, their answers did not clarify the uncertainty of what certain words or phrases meant, or what actions were to be followed.

Therefore, they stated that "[e]ach committee, commission or governing body determines its own process and draws its own conclusions" and "[e]ach examining body, a CPM, COM, PNC, Nominating Committee, Session or Presbytery decides its won [sic] procedures, as it does now" (Kirkpatrick & Jenkins 1997:1). It seemed that G-6.0106b would serve as a broad guideline and various examining bodies would have to fill in the gaps, realising their decisions were subject to review by the governing body who appointed them (ibid).

5.23.3.1 What does "historic confessional standards of the church" mean?

Is the "historical confessional standards of the church" the Westminster Confession, from which the language in the ACOHS recommendation was borrowed? If it is, then the historic standard has been marriage between "one man and one woman," not "a man and a woman." Both W-4.9001 and G-6.0106b changed the language to "a man and a woman," to allow for divorce and remarriage on grounds other than adultery and death, the only two exceptions in the Westminster Confession.

Thus, stating that marriage between "a man and a woman" is a historic confessional standard is an untrue statement. That statement is only true since 1952 and 1959, respectively, when the UPCUSA and PCUS changed the wording in the Westminster Confession to allow for the divorce and remarriage of clergy. The two clerks did not address this statement. Adams *et al* ([2006]:2) claim G-6.0106b transformed the Confessions from teaching documents, which provide guidance, into standards, which require compliance.

Cahn *et al* (2008:17) are correct that the 1996 General Assembly made it clear through this wording change that the church's present understanding of human relationship could differ from those stated in the Confessions.

5.23.3.2 What does "chastity in singleness" mean?

Kirkpatrick and Jenkins (1997:1) stated:

> A person considered to be living an unchaste life as a single person or living outside of a covenantal marriage as defined in W-4.9001 even in a faithful relationship whether heterosexual or homosexual, is not eligible for ordained office under the provisions of G-6.0106b.

The clerks understood chastity to mean not being sexually active. Can a single person be in a monogamous, committed, sexual relationship and be chaste? The clerks responded with "no" (ibid). Chastity, however, has to do with moral character, being pure. It does not necessarily refer to abstinence from sexual activity, which is the modern-day definition (Webster's 1998). Prof. C Elwood (quoted in Smith 1996:1) claims that chastity has not always meant sexual abstinence the way celibacy does, though it has been used that way.

Celibacy, on the other hand, has the clear meaning of either staying unmarried or holding back from having sexual intercourse (Webster's 1998). In 1994, the phrase "fidelity and celibacy" was used in several overtures, but none of them were approved. "Celibacy" was replaced with "chastity" in 1996. The clearest answer as to what the ACOHS probably meant was the clarification by its chairperson, Rev. R Hestenes, an outspoken opponent of partnered gay and lesbian ordination. She claimed that for the Reformers, appropriate behaviour for officers who were unmarried was to be chaste, i.e. "restraint from engaging in sexual intercourse outside the bonds of marriage between a man and a woman" (quoted in Smith 1996:2).

However, Prof. M Achtemeier (Smith 1996:2) points out that the Reformers were reacting to forced celibacy, and marriage was the remedy for singles who experienced sexual "distress." Elwood (:3) argues that chastity meant much more than sexual abstinence, and did not necessarily mean the same thing as abstinence.

Prof. B A Keely (ibid) agrees that chastity was more than abstinence from sexual activity; it was also about purity, personal integrity, and shunning ostentation.

The two clerks' opinion also contradicted the meaning of chastity in the confessional standards, namely the Heidelberg Catechism Question and Answer 108 (4.108 *The Book of Confessions*) regarding the seventh commandment referring to adultery, which stated:

> That all unchastity is condemned by God, and that we should therefore detest it from the heart, and live chaste and disciplined lives, whether in wedlock or in single life.

It is clear from the above that chastity or a chaste life does not necessarily refer to sexually activity, since it applied to both married and single persons. The Heidelberg Catechism speaks about chastity for married and single people, here in the context of answering how both married and unmarried people should avoid adultery, not how to avoid having sex. The proponents of G-6.0106b have distorted the meaning of chastity. The Presbyterians for Renewal (2008a:6) are incorrect in applying "chastity" only to sex:

> In single life, to be chaste (at minimum!) is to abstain from genital sexual relations. In married life, to be chaste is not to abstain, but (at minimum!) to be lovingly and exclusively faithful to one's spouse.

Chastity, in this context, does not mean abstinence from sexual activity, but having a certain moral character to "live chaste and disciplined lives." Smith (1996:1) summarises:

> Though chastity is generally understood to include sexual abstinence for singles, it has not been defined so precisely within the Reformed tradition. Chastity has been used, instead, to describe a purity or quality of life that applies to any Christian, married or single.

Cahn and others (2006:43) agree that chaste marriages consisted of faithfulness to one's spouse. Others suggested the key to chastity is justice-love; sex with mutuality and intimacy (ibid), which was the argument in the 1991 report of the Special Committee on Human Sexuality. Still others argued that chastity was a spiritual concept. The PJC of the Presbytery of New England and the 1999 PJC of the Synod of the Northeast, in *Hair v. Session First Presbyterian Church of Stamford, CT*, found that chastity related to the purity of the heart that we acquire in accepting Christ (see Chapter 5.34).

The conservative Presbyterian Coalition (2002:6) gave some examples from the Confessions of what single life entailed and of behaviour that was chaste and unchaste. However, all three Confession references were to the seventh commandment, not to commit adultery. They quoted the Heidelberg Catechism Answers 108-109, which speaks about chastity both in wedlock and single life, and the Westminster Catechism [sic - The Shorter Catechism] Answers 71-72 which mention neither marriage nor single life. They quoted Heidelberg Catechism Answer 87 which mentions "homosexual perversion," despite it being common knowledge that this was added in 1962 in the 400th anniversary translation, and thus became part of *The Book of Confessions*. The reference to the Heidelberg Catechism again shows the extreme type of proof-texting that took place, without reading the biblical texts or the confessional statements properly, but merely lining them up as evidence and support of one's argument.

The Presbyterian Coalition also referenced the Westminster Catechism [sic - The Larger Catechism] Answers 248-249, and from the whole list of sins picked only "fornication, rape, incest, and sodomy" as examples of unchaste behaviour for singles. Answers 248-249 do not describe these as unchaste behaviour, but as a list of sins which both married and single persons should refrain from.

The Presbyterian Coalition was disingenuous in their use of the Confessions, trying to prove that they spoke about chastity and a chaste life as if it applied only to single persons and not to married persons as well. Their repeated attempts to amend G-6.0106 through adding a clause that required "fidelity in marriage or celibacy" repeatedly failed; thus, they tried to bend the meaning of "chastity in singleness" to mean the same thing as "celibacy" by misusing and misstating the Confessions.

This writer strongly disagrees with the choice of "chastity in singleness" in G-6.0106b, which wholly skewed the traditional meaning of chastity, and assigned a new meaning of single persons not having sex. This was not the intent of the Heidelberg Catechism Question and Answer 108. The authors of G-6.0106b should have used "celibacy," "remain celibate," or "refrain from sexual activity" to better define that they did not want single heterosexual, or partnered gay and lesbian Christians, to engage in any sexual activity at all. "Chastity in singleness" leaves

itself open to various interpretations. But, if "celibacy" was used, it might not have been approved, as was the case in earlier attempts. Whether "celibacy" or "chastity" is used as a requirement for candidates of office to be ordained and/or installed, it runs counter to the Reformed tradition.

The question was raised whether words like "chastity," "repent," or "self-acknowledged" were clear enough concepts. Kirkpatrick and Jenkins (1997:2) replied:

> The words are not defined. Examining bodies will need to consider reasonable definitions and decide which to apply. Ambiguity is not necessarily a barrier to applying a rule to specific circumstances. An example of a familiar ambiguous term which has broad and differing applications in the church is "acceptable" in G-14.0401 in reference to what is a call for ministry that qualifies for ordination. From a polity point of view the interpretative problem is the same.

They acknowledged that the parameters and definition of words and meaning were unclear and, thus, examining bodies subjectively had to decide what to apply.

This "ambiguity" led to many sessions and presbyteries ordaining and/or installing partnered gay and lesbian Christians, since they applied G-6.0106b differently from other sessions and presbyteries, who applied G-6.0106b according to the letter of the law in keeping partnered gays and lesbians from being ordained officers. One could argue that gays and lesbians in committed, fidelity relationships were practicing chastity in singleness, just like the Confessions interpreted chastity, and thus, were ordainable and/or installable. G-6.0106b did nothing to stop the judicial battles that would be waged in the ecclesiastical courts over ordination. The history from 1997, after G-6.0106b became an ordination standard in the *Book of Order*, is one of a long, ongoing struggle of enforcing a policy on one specific group of Christians in the Presbyterian Church.

Additionally, the issue would be raised whether G-6.0106b was an essential of Reformed faith and practice. Presbyterians who believed that sexual abstinence outside of marriage was an essential and, thus, G-6-0106b was an essential, found an ally in the 2008 GAPJC, which ruled in the Bush decision that G-6.0106b was an essential ordination standard which could not be scrupled (see Chapter 5.56). Edwards' (2008:1) criticism is worth noting:

> Contradicting centuries of Reformed theology, the old G-6.0106b in essence made heterosexual works righteousness the only essential of the faith.

5.23.3.3 What does "self-acknowledged practice" mean?

How does "self-acknowledged practice" differ from "self-affirming" which was used in the 1978 and 1979 definitive guidance and 1993 Authoritative Interpretation? Does it mean if someone does not self-acknowledge, G-6.0106b does not apply to them; that they are ordained and keep quiet about their sexual activity? Does self-acknowledge mean to admit openly? What if it is revealed to someone in confidence who does not belong to that person's congregation? What happens if the person lies when asked about their practice? 57 Presbyterian leaders stated that it would prove nearly impossible to interpret and enforce this statement (Adams *et al* [1996]:1).

In December 1996, Kirkpatrick's office, the Office of the General Assembly (OGA), toyed with the idea that this phrase meant "intentional" (Baldwin [2007]a:2). In April 1997, Kirkpatrick and Jenkins (1997:2) wrote:

> The decision in the PJC case LaTourneau [sic] v. Twin Cities (Minutes 1993, p.163) is not limited to the fact that in that case there was self-disclosure of sexual orientation. The PJC held that once the examiners knew there was a question of practice, they had a duty to ask it. The question of when any examining body ought to make specific inquiry as to behavior is not necessarily limited to homosexual practice by the fact that this was the subject in the only case on record . . . . the session has a duty to inquire, whether or not the person volunteers the information.

The 1992 GAPJC ruling in the LeTourneau decision was not applicable to this argument and the clerks misinterpreted the facts. The GAPJC ruled that no evidence was presented that Larges was a practicing lesbian; she only self-affirmed her sexual orientation: she was a lesbian woman. The church had consistently reaffirmed homosexual orientation was not a bar to ordination, but homosexual practice was. The clerks further stated that even mere knowledge of a single person's sexual practice was enough for an examining body to ask, even if the person did not self-acknowledge. This is ridiculous. G-6.0106b seemed to imply that it was about those who admit their "guilt" (Baldwin [1997]a:2). Adams *et al* ([2006]:2) equate it to examination of behaviour; potentially bordering on inquisition.

The 1978 and 1979 "definitive guidance" Policy Statements were clear; unless someone self-discloses, the question could not be asked. It was stated both in the discussion portion and in Paragraph 6 of the Conclusion as a Recommendation:

> We urge candidates committees, ministerial relations committees, personnel committees, nominating committees, and judicatories 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).

The clerks reinterpreted the 1978 and 1979 "definitive guidance" statements, and substituted their interpretation for the interpretation approved by the General Assemblies of the UPCUSA and PCUS. "Self-acknowledged" means what it says; it does not mean an examining body can ask someone about their sexual activity if they are not open and self-affirming about it. If they do not tell, the instruction was clear that you do not ask. Yet, Kirkpatrick and Jenkins answered the question, whether an examining body may seek information on an individual with or without the candidates' permission, with an affirmative. In this writer's opinion, this answer violated the 1978 and 1979 "definitive guidance" Policy Statements and Recommendations.

It is a matter of one's conscience. If a single person is a sexually active heterosexual, or gay or lesbian Christian, and a candidate for ordination or installation, but they do not self-acknowledge, they have to struggle with the issue of their conscience in promising to uphold the Constitution when ordained or installed, but then defying it by not abiding by G-6.0106b. Thus, it seemed G-6.0106b only applied to those gays and lesbians who announced to the CPM or COM of the presbytery, or to the Nominating Committee or the session of the congregation, that they were sexually active. Those who did not self-acknowledge were ordained and/or installed. Baldwin ([2007]a:2) calls it the "titanic-sized loophole."

5.23.3.4 What does "practice" mean?

The sins referred to in the Confessions were of practice or behaviour; thoughts; attitudes; motivation; etc. Many of these are not regarded as sins any longer. The Larger Catechism Question and Answer 139 (7.249 *The Book of Confessions*) mentions one of the sins, "sodomy," and also the sins of "unjust divorce or desertion." Earlier, under the report of the ACOHS at the 1996 General Assembly,

this writer showed how the wording of the traditional language used in the Westminster Standards, taken from the Westminster Confession of Faith, was changed to allow for divorce and remarriage. “One man and one woman” were changed to “a man and a woman” and became the language in the amended overture which became G-6.0106b in the *Book of Order*.

Thus, one set of practice which the Confessions call sin, namely divorce and remarriage of heterosexual persons, was excluded from G-6.0106b by changing the traditional language. G-6.0106b labeled another set of practice, unrepentant sexual activity of single, gay and lesbian Christians as sin, and excluded them from ordination and/or installation. G-6.0106b is nothing less than heterosexual bigotry. One set of rules applied to heterosexuals who could divorce, remarry, and still be ordained and/or installed as officers, without any repentance being asked whatsoever. Another set of rules were applied to sexually active and committed gay and lesbian Christians, who were not allowed to be married by Presbyterian ministers, or be ordained and/or installed as officers, unless they repented.

Johnston (1996:8) rightfully points out that the Presbyterian Church has always shied away from subscription. One needs to briefly take note of the earlier events regarding subscription (see Chapter 2.10 for a full discussion). The 1910 General Assembly first instituted the “Five Fundamentals” of Christian faith. They were reaffirmed in 1916 and 1923, but in 1925, they caused so much pain because they barred someone from ordination on the basis of the “essential and necessary articles.” The *Special Commission of 1925* was formed, and stated in their report in 1927 that subscription did little to foster the Purity of the church, but damaged the Peace and Unity. The PCUSA, in 1927, rescinded the “Five Fundamentals,” and the 1996 General Assembly overwhelmingly voted down a move to reintroduce them.

5.23.3.5 What does “refusing to repent” mean?

Beuttler, the principal author of G-6.0106b, frequently stated that repentance was “the intent of the fidelity amendment” (Weston 2003:57). This raises several questions. Is repentance a one-time action, or a continuous action? How do we test

the sincerity of the repentance? To whom does one repent: to God, your congregation, the session, or the presbytery? Who decides what full and appropriate repentance is? How does a partnered gay or lesbian Christian, who does not believe in good conscience that being in a committed, monogamous relationship is sinful, but is, in fact, being chaste in singleness, repent from it? Baldwin ([2007]a:3) asks if a cat can repent from being a cat. Cahn *et al* (2006:45) state:

> A session or presbytery might well conclude that a person who disagrees with § G-6.0106b is not "refusing" to repent but is, instead, working in good faith to discern the leading of the Holy Spirit, and fit to serve.

The clerks had a weak single sentence reply that one repented towards the examining body (Kirkpatrick & Jenkins 1997:2). What then does the examining body do with the information? Do they decide if the repentance was sufficient and allow persons to be ordained and/or installed? Amendment B is entirely too vague on the issue of what constitutes repentance.

What does a governing body do with an officer who comes forward as an act of conscience and self-discloses and refuses to repent? The clerks pointed out that the Westminster Standards was adopted in 1729 and it allowed a candidate or minister to declare a scruple (reservation) about any article; the governing body had to decide if it made the person "uncapable of communion with them." Sessions and presbyteries continue with this practice and have to consider whether a person is unfit to hold office (Kirkpatrick & Jenkins 1997:4). The clerks did not, however, answer the vital question of whether a person can declare a scruple regarding G-6.0106b and still be ordained and/or installed. It would only be answered through the 2006 General Assembly adopting the 2005 P*eace, Unity, and Purity* Report, again allowing the practice of scrupling (see Chapter 5.49.1).

5.23.3.6 What does "sin" mean?

The sentence "[p]ersons refusing to repent of any self-acknowledged practice which the confessions call sin . . ." can refer to many sins in the Confessions, yet it was implied that it referred to the previously mentioned sentence regarding sexual sin. The 1996 General Assembly did exactly what the ACC and previous General

Assemblies had warned against doing: elevated one sin above other sins. The clerks responded that an acceptable ambiguity in the Westminster Standards existed, while the Second Helvetic Confession stated that not all sins were equal (Kirkpatrick & Jenkins 1997:4).

Baldwin ([1997]a:1) claims the clerks skirted the issue. There are 250-300 practices labeled sins in the eleven Confessions, yet only one, the Scots Confession, names 28 practices called sin. It prohibits adultery, but not same-gender relationships or fornication. Baldwin claims the writers of G-6.0106b meant to limit the scope to sexual sin and sold it to the voters as such, but it included more than non-sexual sins (ibid, cf. Baldwin [1997]b). Thus, one presumes inquiries into non-sexual sins would not be launched, despite G-6.0106b naming sin and not just sexual sins. Adams *et al* ([2006]:1) point out that sinful behaviour in the Larger Catechism (C-7.229) also included "undue delay of marriage," "usury," "working and causing others to work on the Sabbath," and "needless . . . thoughts about worldly employments . . ."

The Heidelberg Catechism Question and Answer 87 (4.087 *The Book of Confessions*) mentions "homosexual perversion," but it has been shown to be an addition to the text by Miller and Osterhaven in 1963 (cf. North Como 2005:171-173). However, none of the other vices are labeled as sin or vices. The occurrence of "sodomy" in The Larger Catechism Answer 139 (7.249 *The Book of Confessions*) is the only occurrence in *The Book of Confessions.* However, it is unclear if anal homosexual rape, consenting homosexual anal acts, or anal penetration of a female by a male is meant. Nor does the word specify if anal intercourse is meant at all.

Furthermore, nowhere in the Confessions is there any mention of sexual activity between two women. Nor would "sodomy" apply to sexual acts between two women. The PC(USA) nearly always grouped the sexual acts between two men or two women together as "homosexual acts," and called both groups "homosexual persons." G-6.0106b, again, did not differentiate between gays and lesbians. The reference to "self-acknowledged practice which the confessions call sin" clearly referred to "sodomy." Yet, G-6.0106b would be used to keep partnered lesbian women from ordination and/or installation without a reference to their sex acts being mentioned in any of the eleven Confessions!

Does G-6.0106b also include other sexual sins listed with "sodomy" in The Larger Catechism Question and Answer 139 (7.249 *The Book of Confessions*); namely, unnatural lusts; all unclean imaginations, thoughts, purposes, and all affections; wanton looks; and undue delay of marriage? The list also contains non-sexual sins, e.g. impudent and light behaviour; immodest apparel; idleness, gluttony, drunkenness, unchaste company; lascivious songs; books, pictures, dancings (original), stageplays, etc. These sins clearly apply to heterosexual, gay, and lesbian persons alike. Did G-6.0106b apply to this whole list of sins or only to the sins of gay and lesbian Christians? Would governing bodies selective apply this rule to certain individuals only? (Lehman [1996]:2).

Beuttler (2001:41) argues that the confessions [sic - capitalised] as a whole define what sin is and that Amendment B should be read in that light. Why did he and others highlight sexual sins from the Confessions and not other sins? Why would only sexual sins make one ineligible for office, and only this sin be incorporated into the *Book of Order*? "Theological arguments are met with polity solutions . . ." (ibid). This is exactly what Beuttler is guilty of! He was the chief architect behind stopping theological discussion on same-gender sexuality and classifying it as sin through polity. This only created an impasse where the liberals and the conservatives vie for control over the polity in the absence of theological discussion. Virtually no theological discourse takes place on General Assembly and presbytery level; we only vote up or down on overtures and commissioners' resolutions that would ask for a change in the polity.

Neither the two clerks nor the General Assembly clarified this vague reference to sin in the Confessions. The unfortunate history of the PC(USA) has shown that G-6.0106b, despite the fact that it was promoted to apply to all officers in the church, has been used predominantly to keep partnered gay and lesbian Christians from being ordained and/or installed as officers. The moderator of the General Assembly, Rev. J M Buchanan (1997:1) wrote that despite disagreement on which sins were mentioned ". . . everyone understands that the constitution now excludes from ordination persons who are sexually active outside heterosexual marriage – i.e., sexually active gays, lesbians and single heterosexuals."

5.23.3.7 What does "shall not be ordained and/or installed" mean?

Johnston (1996:9) points out that "shall not" is the strongest language the *Book of Order* allows. "Shall not" means an ordination found to be inconsistent with G-6.0106b would be nullified and the officer removed. This is the strongest form of censure. Yet, Johnston notes that the uncertainty of terms such as "self-acknowledged," "sin," and "refusing to repent" showed uncertainty in judging when and to whom to apply this sanction.

What happens if a person was improperly ordained? Kirkpatrick and Jenkins (2007:3) state that remedial or disciplinary cases may be filed, and consequences can be that the officer is removed from active service; the governing body may be corrected and instructed to take corrective action; and elders and ministers may be disciplined by being rebuked, removed from office or membership of the church. Yet, even the GAPJC, to this day, has not ruled to remove any irregularly-ordained officer.

This writer agrees with Baldwin ([2007]a:3) that two key issues are missing in G-6.0106b; namely, God's calling and the grace of Christ. G-6.0106b comes into play after a Nominating Committee has made an initial determination that a person is called to be an officer and has the necessary gifts (G-6.0106a). Presbyterians believe God issues this call through the calling body. G-6.0106b indirectly states that God does not call persons in violation of Amendment B (ibid). The church has become the judge of whom God calls and does not call by putting superficial, time-bound, ecclesiastical, and politically-motivated clauses into the *Book of Order*.

5.23.3.8 Why is "obedience to Scripture and conformity to the historical confessional standards" and not "obedience to Christ" required?

Presbyterian officers, through the constitutional questions in W-4.4003d, promise "… obedience to Jesus Christ, under the authority of Scripture, and continually guided by our confessions." We do not promise "conformity" to the Confessions, which G-6.0106b requires, but only to be "guided" by them. Baldwin ([1997]a:4-5)

points out that Presbyterians have not historically viewed the Confessions as law, and G-6.0106b erred in ascribing a legalistic authority they do not have or claim. Lehman ([1996]:1) states that, for the first time, parts of *The Book of Confessions* would become absolute standards by which individuals would be accepted or rejected for ordination and/or installation.

This writer finds that the authors of G-6.0106b ignored the grace of Christ and supplanted it with ". . . lead a life in obedience to Scripture and in conformity to the historic confessional standards of the church." They sought to impose their judgment over God's in whom we call to office. Johnston (2007:5) asks whether conformity to the Confessions, and not Christ, was an affirmation or departure from Presbyterian tradition. The 1997 proposed amendment of G-6.0106b, Amendment A, would be a corrective by following the constitutional questions of obedience to Jesus Christ (see Chapter 5.24.1).

5.23.4 Special Organisations and Accountability

Commissioners' Resolution 96-36 requested that the General Assembly appoint a Task Force to establish relationships of accountability with special organisations, and the General Assembly approved it as amended. The Task Force was to report back in 1997 (PC(USA) Minutes 1996:792-793, 39). It reported back and the 1997 General Assembly extended the Task Force to report to the 1998 General Assembly (PC(USA) Minutes 1997:199, 116, see Chapter 5.26.4).

5.23.5 Resolution on Civil Rights for Same-Gender Partners

Commissioners' Resolution 95-10 from 1995 was referred to the 1996 General Assembly. In 1993, the Supreme Court of Hawaii issued a preliminary decision stating that it appeared to be unconstitutional to deny privileges of civil status to same-gender couples. This created the possibility of future same-gender marriages in Hawaii (PC(USA) Minutes 1996:781). The General Assembly approved an alternative resolution:

> Affirming the Presbyterian church's historic definition of marriage as a civil contract between a man and a woman, yet recognizing that committed same-sex partners seek equal civil liberties in a contractual relationship with all the civil rights of married couples, we urge the Office of the Stated Clerk to explore the feasibility of entering friend-of-the-court briefs and supporting legislation in favor of giving civil rights to same-sex partners (:122).

The PC(USA) approved of the civil rights of same-gender couples and possible civil marriages, but did not approve of these rights within the church. However, both houses of the Hawaii legislature adopted legislation which only recognised marriage between a man and a woman, but provided a legal contract for same-gender couples (PC(USA) Minutes 1997:128).

5.23.6 Summary

Both the ACC and the ACOHS clarified that homosexual orientation was not sin, nor a barrier to ordination. But the refusal to repent of self-acknowledged practice which the Scriptures, interpreted through the Confessions, called sin, barred one from office. The General Assembly approved the amended recommendation of the ACOHS on Overture 96-13 by adding a new paragraph "b" to G-6.0106:

> b. Those who are called to office in the church are to lead a life in obedience to Scripture and in conformity to the historic confessional standards of the church. Among these standards is the requirement to live either in fidelity within the covenant of marriage between a man and a woman (W-4.9001), or chastity in singleness. Persons refusing to repent of any self-acknowledged practice which the confessions call sin shall not be ordained and/or installed as deacons, elders, or ministers of the Word and Sacrament.

After the majority of the 173 presbyteries approved Amendment B on 1 April 1997, it became part of the *Book of Order* on 21 June 1997 and constitutional law (Van Marter 1997b). The presbyteries' vote was 97-74, with two presbyteries taking no action (PC(USA) Minutes 1997:133). However, despite the fact that it looked like a big majority approved G-6.0106b, the popular vote was only 50.6% (Van Marter 1997b). In many presbyteries, the vote was extremely close and often decided by a few votes on either side of the debate.

For the first time, since the gay and lesbian ordination debate started in the 1970s with the UPCUSA and PCUS, and continued in the PC(USA), clear language was written into the Constitution requesting chastity in singleness from all unmarried

officers. Although the amendment only used positive language, it barred a certain group of active members, namely self-affirmed, practicing gay and lesbian persons from ordination and/or installation. Even these words were not used, but a neutral "self-acknowledged practice" which is sin. The *Book of Order* would not contain the wording of the 1978 and 1979 "definitive guidance" or 1993 Authoritative Interpretation. The words homosexual, gay, lesbian, same-sex, and same-gender were still absent from the *Book of Order*.

Interestingly, the General Assembly did not approve the overtures requesting the "fidelity and chastity" clause of G-6.0106b be repeated in an amended G-6.0108b. Neither did it approve suggested amendments that "may" be replaced with "shall" in D-3.0200, or striking "necessary" and "may" and replacing with "finds that an irregularity or delinquency has occurred, it shall" in D-3.0400.

Not all congregations would abide with G-6.0106b after it had been written into the Constitution. 1997 saw the birth of vocal opposition through churches becoming More Light Churches, who would defy G-6.0106b and continue to ordain and/or install officers without regard to sexual orientation and practice (see Oppenheimer 1997).

5.24 The 209th General Assembly of the PC(USA) in 1997

The 1997 General Assembly occurred merely months after G-6.0106b was approved to become part of the *Book of Order* as a specific ordination standard. It would only be logical that overtures would request that the new G-6.0106b be amended. The General Assembly would also deal with many other overtures related to same-gender relationships; namely, to define the essential tenets, to set the 1978 "definitive guidance" and 1993 Authoritative Interpretation aside, to amend G-13.0103r, to amend the Preface of the Directory for Worship, and issue a new translation of the Heidelberg Catechism.

5.24.1 Overture on Amending G-6.0106b

The Presbytery of Kiskiminetas sent Overture 97-10, arguing that if G-6.0106b should be approved by the majority of presbyteries, it could disrupt the peace and unity of the church because of questions dealing with "conforming to the historic confessions of the church" (PC(USA) Minutes 1997:686). The overture requested that "conformity to" be replaced with "instructed by" the historic confessions and the last sentence be deleted, "[p]ersons . . . Sacrament" (ibid). The presbytery also sent Overture 97-11, if the amendment to G-6.0106 was defeated, asking the exact same from the General Assembly (:686-687). The overtures became moot when the amendment to G-6.0106 passed to add a part "b."(:90).

The ACC commented that Overture 97-10, in requesting to delete the last sentence of G-6.0106b, did not speak to the issue of ordination or installation. The ACC recommended that the last sentence be replaced with:

> Persons engaging in conduct inconsistent with this standard shall not be ordained or installed as deacons, elders, or ministers of the Word and Sacrament (PC(USA) Minutes 1997:170).

The Assembly Committee on the Book of Order (ACBOO) presented majority and minority reports (PC(USA) Minutes 1997:89). The committee voted 39-9 to approve the majority report (Van Marter 1997b). The General Assembly, by a vote of 309-227, rejected the minority report of the nine members of the ACBOO. The General Assembly, by a vote of 328-217, or 60-40% (Van Marter 1997c) approved the majority report, an amended form of Overture 97-10, with comment:

> Those who are called to office in the church are to lead a life in obedience to Jesus Christ, under the authority of Scripture and instructed by the historic confessional standards of the church. Among these standards is the requirement to demonstrate fidelity and integrity in marriage or singleness, and in all relationships of life. Candidates for ordained office shall acknowledge their own sinfulness, their need for repentance, and their reliance on the grace and mercy of God to fulfill the duties of their office (PC(USA) Minutes 1997:89-90).

Amendment A was a reworked format of G-6.0106b, but was phrased in a much less prohibitive manner.

The chair of the ACBOO, Rev. Dr. L J Stuart (1997a:2), explained that the amended overture replaced "obedience to Scripture" with the appropriate sequence of authority, namely "obedience to Christ, under the authority of Scripture" and

"instructed" rather than "conformity" to the historic confessional standards. This writer believes it was a more accurate way of stating to whom officers pledge obedience, and it reflected the constitutional question asked of deacons and elders in G-14.0207d and ministers in G-14.0405b(4), all currently found in W-4.4003d, promising ". . . obedience to Jesus Christ, under the authority of Scripture, and continually guided by our confessions?"

The "fidelity within the covenant of marriage between a man and a woman (W-4.9001), or chastity in singleness," was replaced with "fidelity and integrity in marriage or singleness, and in all relationships of life." Stuart (1997b) later stated that the language of Amendment A was intended to avoid rigid legalism and guard against permissiveness. It would be a revoking of G-6.0106b, but the meaning of "singleness" was still unclear. Was it either "fidelity in marriage" and "fidelity in singleness," or only "fidelity in marriage" alone? In Stuart's (1997:3) report, he described it as "fidelity and integrity in marriage and in all the relationships of life," thus, leaving singleness out. Perhaps a comma should have preceded "or singleness," if it was only meant to be "fidelity in marriage."

This writer presumes "fidelity in marriage" was meant, since the commentary on the overture specified that the overture did not overturn the 1978 and 1979 "definitive guidance" policies against the ordination of self-affirming, practicing homosexual persons, and subsequent reaffirmations of that policy as Authoritative Interpretation (PC(USA) Minutes 1997:90). The Stated Clerk and Moderator of the General Assembly affirmed this view in their pastoral letter to the church that the General Assembly made it clear:

> . . . that it was not setting aside the authoritative interpretation that those being ordained should not engage in sexual practice outside of marriage but was rather seeking to focus on integrity and fidelity in both marriage and other relationships . . . (Kirkpatrick & Brown 1997:2)

Kirkpatrick again stated later that "[a]mendment A does make more changes possible in the future, but it does not by itself, change current policy" (Van Marter 1997d:2).

G-6.0106b's "[p]ersons refusing to repent of any self-acknowledged practice which the confessions call sin. . ." was replaced with the more positive ". . . shall acknowledge their own sinfulness, their need for repentance, and their reliance on the

grace and mercy of God. . .” Thus, while G-6.0106b was in line with the wording of the 1978 and 1979 “definitive guidance” and 1993 Authoritative Interpretation of “self-affirming” of homosexual persons, Amendment A placed the focus more directly on heterosexual, gay and lesbian officers alike and required repentance from all. Kirkpatrick & Brown (1997) clarify that it was “. . . to recognize that all of us are sinners in need of repentance and the grace of God.”

Stuart (1997a:3) states that the catalogue of sins in G-6.0106b was cumbersome and confusing; therefore, it was replaced with “acknowledge their own sinfulness.” Later, Stuart (1997b) states that sinfulness was not whether we violated a list of wrongs, but was an inherent and natural condition of all.

5.24.1.1 Amendment A of 1997

Twenty-nine Overture Advocates promoted the passing of Amendment A. They reiterated that those who believed Scripture prohibited the ordained service of gays and lesbians could exercise discretion and not ordain or install them, while others could follow their conscience. They stressed:

> We ordain people to the whole church, but we install people to particular ministries (Andrews 2001b:2).

This is the ideal scenario of respecting the decisions of other ordaining bodies, but this writer’s research shows that conservatives would not tolerate that progressives allowed self-acknowledged gays and lesbians to serve as officers at all, and wanted to legislate one rule that fit all. In G-6.0106b, they had that rule.

This writer is amazed by the lack of clarity that has prevailed in some of the decisions made since 1978. The 1978 and 1979 “definitive guidance” statements, G-6.0106b, Amendment A, etc. were all unclear in their wording and left much to be desired. One wonders how recommendations can be made by several committees and discussed by the General Assembly commissioners before voting, yet the end result is still not a crystal-clear reading and understanding of what exactly is meant.

In this period of discussing Amendment A, another group was formed in Chicago, the Covenant Network of Presbyterians. The co-conveners, Dr. J Buchanan and Dr. B

Bohl, were former Moderators of the General Assembly and pastors of the two largest liberal congregations in the Unites States. In September 1997, one hundred and forty people met and formed the Covenant Network to work for the passage of Amendment A (Burgess 1999:265). They believed it would serve as a bridge to moral discourse, rather than preemptively imposing moral restrictions (:266).

Also, in September 1997, nearly one thousand people met in Dallas through the Presbyterian Coalition, a loose alliance of various "renewal groups" and special organisations (Burgess 1999:266-267). The Coalition attracted a big group of centrists. Despite the message from speakers to work for change within the denomination, many of the younger evangelical pastors were frustrated (:267). The Coalition stated that it ". . . neither endorses nor rejects the practice of redirecting per capita funds . . . . We affirm the right of each session to determine how it exercises its stewardship of per capita funds. . ." (:268). Thus, the Coalition suggested that genuine transformation could occur within the denomination if sessions did not pay the voluntary per capita dues, a set amount that each congregation pays yearly for each active member, mandated by the *Book of Order* G-9.0404d.

Interestingly, the Moderator of the Presbyterian Coalition, Dr. J Haberer, served on the Peace, Unity, and Purity Task Force from 2001-2006, and became the editor of the Presbyterian Outlook, the mainstream weekly Presbyterian newspaper. His views would radically shift from conservative and exclusive in *GodViews*, to a more inclusive and centrist position, much to the dismay and stinging criticism of his former allies. His experience is a glowing example of how one's views can be enhanced and expanded by entering into conversation with those who hold a radically different theological view.

The Covenant Network's focus was the unity of the church. Unity was a sign of the purity of the church. The Presbyterian Coalition emphasised the purity of the denomination, which is a precondition for its unity (Burgess 1999:269).

Various factions in the denomination reacted to Amendment A. The progressive Presbytery of Milwaukee passed a "covenant of dissent." Others vowed to withhold per capita funds. The *Presbyterian Layman* urged congregations to withhold funds if

Amendment A passed. The Stated Clerk, Kirkpatrick, had to declare that these "are not responsible means for effecting change in our church" (Van Marter 1997d:1).

5.24.2 Overture on Determining the Essential Tenets

The Presbytery of Palo Duro sent Overture 97-13, requesting that a committee be appointed to determine the essential tenets of the Reformed faith and to report back to the 2001 General Assembly (PC(USA) Minutes 1997:687-688). The General Assembly did not approve the overture (:42). To this day, the Presbyterian Church has not defined the essentials of Reformed faith, but leaves it up to the discretion of ordaining and/or installing bodies.

5.24.3 Overture on Setting Aside the 1978 "Definitive Guidance" and 1993 Authoritative Interpretation

The Presbytery of National Capital sent Overture 97-18, requesting the setting aside of the 1978 "definitive guidance" and 1993 Authoritative Interpretation, and the issuing of a new Authoritative Interpretation under G-13.0103r, which affirmed the principles of diversity and inclusiveness and declared invalid any impediments to the full application of these principles (PC(USA) Minutes 1997:691). The ACC responded that the overture could not be accomplished, since the General Assembly did not have the authority to set aside or rescind the actions of any predecessor General Assembly nor the decisions of the GAPJC (:172).

This writer asked Rev. S Smith, who served as Moderator of the GAPJC, if the first part of the above statement is correct. He responded that the General Assembly does not have the authority to simply eliminate an earlier Assembly's Authoritative Interpretation. It may replace it with a different interpretation, and it may change the Constitution section on which the interpretation is based, but it may not just get rid of the earlier interpretation. The response to Overture 97-18 was that it could not do that. If 97-18 had proposed an alternative to the "definitive guidance," then it could have been debated. Therefore, the ACC stated that the General Assembly, under

G-13.0103r, could issue a new Authoritative Interpretation of a *specific* provision of the Constitution (PC(USA) Minutes 1997:172).

Regarding the second part of the request, the ACC responded that governing bodies cannot exercise their own judgment contrary to constitutional standards. The current standard was set by the 1992 GAPJC in the Sallade ruling (PC(USA) Minutes 1997:172) when Spahr was denied installation for being a partnered lesbian. The ACC is a powerless body that cannot even comment on GAPJC decisions. The eighteen-person GAPJC has absolute power in all ecclesiastical rulings, and is accountable and reviewable by no-one. Thus, even the dubious Sallade ruling was the yardstick which the ACC had to use to give advice on the Constitution, even though they might have disagreed with the ruling.

Lastly, with the passing of G-6.0106b, the overture was in conflict with a specific provision of the Constitution which set limits on the diversity and inclusiveness of the church. Thus, what basically occurred was that the presbyteries voted on how diverse and inclusive the church was: it excluded a whole group of people from leadership and exercising God's call in their life. The church had determined that God could not call monogamous, committed, practicing gays and lesbians to be officers. The General Assembly disapproved the overture (PC(USA) Minutes 1997:90).

5.24.4 Overture on Amending Procedures to Interpret and Amend the Constitution

The Presbytery of San Francisco sent Overture 97-30, a slightly amended version of their 1996 Overture 96-30. They requested the striking of G-13.0103r and the adding of a new paragraph to the end of G-12.0112d, that the interpretive recommendations of the ACC should be binding as Authoritative Interpretation once approved by the General Assembly (PC(USA) Minutes 1997:698). The ACC commented that the overture erroneously assumed the ACC interprets the Constitution; it only gives advice. The General Assembly interprets the Constitution (:175).

Interestingly, the ACC provided the General Assembly with a back-door option of how to get out of the predicament in which they had put the General Assembly in 1987 with their recommendation to approve G-13.0103r:

> . . . that the effect of a ruling by the General Assembly Permanent Judicial Commission can be superseded by amending the Constitution in such a way that the conditions under which the decision was made are changed (PC(USA) Minutes 1997:175).

However, the ACC did not elaborate with suggestions as to how the General Assembly would accomplish this. They recommended the overture not be approved (ibid) and the General Assembly concurred (:90).

The Presbytery of Winnebago sent Overture 97-9, requesting that G-13.0103r be changed so that the General Assembly could not issue Authoritative Interpretations, but only the GAPJC (PC(USA) Minutes 1997:684-685). The ACC advised against this (:169) and the General Assembly concurred (:90).

Note should be taken of the ACC's comment on Overtures 97-9 and 97-30. The decisions of the GAPJC, although not reviewed by the General Assembly since 1972, are ". . . usually narrowly drawn, dealing only with the immediate context within which the case presents itself" (PC(USA) Minutes 1997:169). Also:

> It is important to note that a new General Assembly authoritative interpretation does not change a prior authoritative interpretation or decision by the General Assembly Permanent Judicial Commission. A prior authoritative interpretation may only be supplanted, not rescinded (ibid).

The ACC continued to state that the GAPJC rulings could not act as a unifying factor, since they were narrowly drawn and specific to the context, "thereby failing to serve the broad interpretive functions [which] such controversies sometimes require" (ibid). Thus, the ACC concluded that both the narrow decisions of the GAPJC and the broader decisions of the General Assembly were needed. The same issue would arise in 1998.

5.24.5 Overture on Amending the Preface of the Directory for Worship

The Presbytery of Baltimore sent Overture 97-36, arguing that the Preface to the Directory for Worship contained definitions of the words "shall," "is to be/are to be," "should," "is appropriate," and "may." They requested that the Preface to the

Directory for Worship be deleted and added to the Preface of the *Book of Order*. Additionally, the word "also" should be deleted in the sentence following the definitions in the Preface of the Directory for Worship "[t]his directory ~~also~~ uses language about worship which is simply descriptive" (PC(USA) Minutes 1997:702).

The ACC suggested that the paragraphs be added to the other two parts of the *Book of Order* as well, the Form of Government and Rules of Discipline, rather than to the Preface of the *Book of Order*. The deleting of "also" would change the usage of the definitions in the Directory for Worship, and should remain as an addition, rather than a substitute. The ACC also suggested that the phrases be capitalised letters (PC(USA) Minutes 1997:176). The General Assembly, however, approved the overture (:89) and Amendment I was approved by the presbyteries by a vote of 157-16. However, even though the phrases were moved to the Preface of the *Book of Order* per the overture, they were capitalised, and the word "also" was not deleted in the sentence in the Preface to the Directory for Worship.

Amendment I was inserted into the Preface to the *Book of Order* and states:

> In this Book of Order:
> (1) SHALL and IS TO BE/ARE TO BE signify practice that is mandated,
> (2) SHOULD signifies practice that is strongly recommended,
> (3) IS APPROPRIATE signifies practice that is commended as suitable,
> (4) MAY signifies practice that is permissible but not required.

The approval of Overture 97-36 brought consistent use of phrases and meaning throughout the *Book of Order*. This does not, however, mean that a battle would not be waged to change many of the "may" and "should" phrases to "shall" phrases; i.e. to have practices mandated and not merely required or recommended.

5.24.6 Overture on a New Translation of the Heidelberg Catechism

The Presbytery of Winnebago sent Overture 97-63, arguing that the 1962 translation of the Heidelberg Catechism by Mr. A O Miller and Mr. M E Osterhaven introduced new and extraneous interpretative material, specifically section 4.087. The overture requested a new translation be considered in 1999 (PC(USA) Minutes 1997:714). The Miller-Osterhaven translation stated, in the Answer to Question 87, that ". . .

none who are guilty either of adultery or of homosexual perversion . . . will inherit the kingdom of God" (4.087 *The Book of Confessions*). The phrase "homosexual perversion" is not in either the original German or Latin texts.

North Como (2005:171-172) explains that, in 1965, the Special Committee on a Brief Statement of Faith recommended to the General Assembly of the UPCUSA to expand *The Book of Confessions* by including the 1962 Miller-Osterhaven translation of the Heidelberg Catechism In 1967, this translation became part of *The Book of Confessions* (:172). It should be noted that a footnote to the Heidelberg Catechism pointed out that the copy in *The Book of Confessions* was reprinted from *The Heidelberg Catechism, 1563-1963, 400th Anniversary Edition* (*Book of Confessions* 2004:29). Additionally, the two scholars were not even Presbyterian; Miller belonged to the United Church of Christ and Osterhaven belonged to the Reformed Church in America (RCA) (North Como 2005:171).

Miller and Osterhaven included the phrase "homosexual perversion" since they used Niesel's 1938 German text which identified first, second, and third editions from 1563. To show biblical and theological precision, the two translators included the present-day translation, the Revised Standard Version (RSV), and occasionally, the New English Bible (NEB). Niesel's edition cited 1 Cor 6:9-10, Eph 5:5, and 1 Jn 3:14; the Tercentenary Edition cited 1 Cor 6, Eph 5, and 1 Jn 3; and the Miller-Osterhaven's commentary cited four texts: 1 Cor 6:9-10 from the NEB, and Gl 5:19-21, Eph 5:5-33, and 1 Jn 3:14-24 from the RSV (North Como 2005:173). Thus, it appears, rather than translating the German or Latin texts, they viewed 1 Cor 6:9-10 as part of the answer and copied these verses out of the NEB (ibid, Rogers 2005a:117 footnote 28).

Additional information has been brought to light by the Presbyteries of Pittsburgh (2008), Boston (2008), and Chicago (2008), who sent overture to the 2008 General Assembly to restore the Heidelberg Catechism to an authentic and reliable English version, by replacing the 1962 translation. They discovered a letter by Osterhaven to the editor of *Monday Morning* dated 25 November1996, in which he disclosed that this replacement of "homosexual perversion" was entirely intentional:

> In light of the sexual revolution of the 1960s, it would be well to be more specific [about sexual practice] . . . than [the author [sic - authors] of the Heidelberg Catechism] had been in his [sic -their] day (Presbytery of Pittsburgh 2008, see footnote 3; Presbytery of Boston 2008, see footnote 2; Presbytery of Chicago 2008, see footnote 3).

In 1996, after the G-6-0106b debate and the mention of the Confessions in it, two professors, C Elwood and J W H Van Wijk-Bos, discovered the discrepancy. They could not find the phrase "homosexual perversion" in the German, Latin, or Niesel's 1938 editions, and showed how the Miller-Osterhaven edition had introduced wording from the 1961 NEB. They asked the chair of the 1965 Special Committee on a Brief Statement of Faith, E A Dowey, to explain it (Elwood & Van Wijk-Bos [1996]:2). Dowey wrote that not noticing the inaccuracies was an egregious oversight that should have been corrected in 1965 (North Como 2005:173).

Rogers (2006a:116) also completed a rigorous search after hearing that Van Wijk-Bos had discovered a discrepancy. He researched Latin, German, Dutch, and English versions, and all did not have "homosexual perversion" until the 1962 version. Rogers contacted the chair of the committee of the RCA that produced a more current text in 1989. One member of this translation team, Osterhaven, had been one of the 1962 translators, and he acknowledged that they had used the wording of 1 Cor 6:9-10 as it appeared in the NEB, the newest available translation published in 1961. The NEB was the first translation to use "homosexual perversion" (:117). Rogers also noted that the 1989 translation by the RCA had a footnote stating that there was no word in the original text of the Heidelberg Catechism corresponding to the phrase "homosexual perversion" (ibid).

Rogers (2006a:117) argues that the authors of Answer 87 did not intend it to be based on a single passage. The biblical passages cited in the margin of the catechism besides 1 Cor 6:9-10 are Eph 5:5, 1 Jn 3:14, and Gl 5:21. The focus in Eph 5:5 is not on homosexuality, but covetousness, greed, and striving for financial gain that are defined as idolatry; 1 Jn 3:14 is on lacking love; and Gl 5:21 has a long list of sins (:118). Rogers concluded that there was no instance in these four texts where an application to same-gender practice was indicated.

Additionally, *The Book of Confessions*' version of the Heidelberg Catechism does not include footnotes for the scriptural references at all, only the Questions and Answers. Thus, one is left both with an incorrect translation of the original document, and without any reference to which biblical passages were used to answer the specific questions.

The above arguments confirm Overture 97-63 was valid in requesting a new translation of the Heidelberg Catechism, especially Answer 87. The Assembly Committee on Catechisms and Confessions (ACCC) recommended the overture be approved. The General Assembly, however, disapproved the overture (PC(USA) Minutes 1997:41-42). North Como (2005:163) speculated that some commissioners stated that it would cost too much money to produce, and they were not willing to collaborate with other denominations, even if the cost was shared.

Thus, a part of the Constitution, namely the Heidelberg Catechism in *The Book of Confessions*, has a statement that is both false and flawed, and the *Book of Order* has a specification in G-6.0106b regarding "[p]ersons refusing to repent any self-acknowledged practices which the confessions call sin. . ." which presumably refers to Answer 87 in the Heidelberg Catechism. The single most exclusive statement in the Constitution, G-6.0106b in the *Book of Order*, is built upon only two texts in the Constitution; namely, Answer 87 in the Heidelberg Catechism and Answer 139 in the Larger Catechism, which use the phrases "homosexual perversion" and "sodomy," respectively, in *The Book of Confessions*.

5.24.7 Summary

A year after G-6.0106b was approved by the 1996 General Assembly and by the majority of presbyteries, a different set of commissioners in 1997 voted to amend it. Amendment A stated:

> Those who are called to office in the church are to lead a life in obedience to Jesus Christ, under the authority of Scripture and instructed by the historic confessional standards of the church. Among these standards is the requirement to demonstrate fidelity and integrity in marriage or singleness, and in all relationships of life. Candidates for ordained office shall acknowledge their own sinfulness, their need for repentance, and their reliance on the grace and mercy of God to fulfill the duties of their office (PC(USA) Minutes 1997:89-90).

Amendment A left too many uncertainties with presbyteries, while Amendment B on G-6.0106b more clearly articulated what you were voting for; namely, to vote the 1978 and 1979 "definitive guidance" and 1993 Authoritative Interpretation regarding self-affirming, practicing homosexual persons into the *Book of Order*, making it constitutional law. Thus, it comes as no surprise that Amendment A hopelessly failed when the presbyteries defeated it by a 114-59 vote (PC(USA) Minutes 1998:131). The popular vote was much closer at 54-46% (Van Marter 1998b).

In summary, an overture for a new corrected translation of the Heidelberg Catechism was not approved, but similar overtures would be sent in the coming years.

5.25 The PJC of the Synod of the Covenant Ruling in *Riefle v. Session of John Knox Presbyterian Church.* Remedial case 96-1 in 1997

In October 1995, the Session of Knox Presbyterian Church in Cincinnati, Ohio (Knox) received a slate of officers from the Nominating Committee. The Clerk of the session believed one of the nominees, Mr. D Duckett, to be a gay man (Synod of the Covenant Minutes 1997:203). Another elder stated that the man had said he was gay. The Clerk gave the session several documents to study. In December, the candidates were interviewed, but no elder asked a question of any of the candidates regarding their sexual orientation. At the trial, elders stated that the man did not initiate in declaring his sexual orientation. He was ordained and installed with the rest of the class in January 1996 (:204).

In February 1996, Mr. G W Riefle met with the session to express his concern over the elder whom he believed to be gay. Riefle wrote to the session and the Stated Clerk of the Presbytery of Cincinnati (Presbytery) in March asking them to correct the irregularity (Synod of the Covenant Minutes 1997:203). The presbytery appointed a Committee of Council and they treated Riefle's letter as a complaint, over the session's objections. In June, the PJC of the Presbytery of Cincinnati (PPJC) ruled 4-3 in favour of Riefle. The session filed an appeal with the PJC of the Synod of the Covenant (SPJC) (:204).

The SPJC unanimously sustained the specification of error that that the PPJC complaint failed to state a claim upon which relief could be granted (Synod of the Covenant Minutes 1997:205). The PPJC claimed a precedent set in 1836, but that case had no relevance in declaring the ordination null and void. Rather, G-14.0203 (currently G-14.0210) stated that the office of elder was perpetual and could not be laid aside, except in a disciplinary proceeding (:206).

The SPJC unanimously sustained the specification of error that the PPJC had granted relief beyond its power to grant since it was contrary to G-14.203 [sic - G-14.0203], and contrary to legal precedent set by the GAPJC ruling in *Hope Presbyterian Church v. Central Presbyterian Church* in 1990 [sic - 1993]. The GAPJC, in the Hope ruling, upheld the ordination of a gay and lesbian despite it being irregular and not in accordance with constitutional law. The ordination stood in accordance with G-14.0203 and the Hope decision. The SPJC found no authoritative precedent to declare the ordination null and void (Synod of the Covenant Minutes 1997:206).

The SPJC unanimously sustained the specification of error that the PPJC found Knox had failed to uphold its obligations, resulting in an “irregularity” (Synod of the Covenant Minutes 1997:206). The SPJC found that at no point had a declaration been made and, therefore, the session did not conduct a specific examination of the sexual orientation of the elder-elect. This was in accordance with Recommendation or Paragraph 6 of the 1978 “definitive guidance” Policy Statement of the UPCUSA: an ordaining body should not make specific inquiry unless the person has taken the initiative to declare his sexual orientation or practice to the judicatory (:207). The SPJC found that the 1978 Policy Statement meant that a declaration must be made directly to the judicatory (:208).

Thus, rumors about Duckett’s sexuality, and declarations he might have made to other parties earlier, were impermissible. The SPJC, although it did not refer to G-6.0106b of 1997, but the 1978 “definitive guidance,” reaffirmed what the church’s policy was; namely, that a candidate had to self-disclose whether they were a sexually-active gay or lesbian. The PPJC did not follow the polity, but overreached in asserting the session should have asked Duckett about his sexual orientation. However, the PC(USA) has continually stated that homosexual orientation was not a

bar to ordination and/or installation, but self-acknowledged homosexual practice was. There was insufficient evidence of both: Mr. Duckett did not self-acknowledge either his sexual orientation and/or his sexual practice.

The SPJC unanimously sustained the specification of error that Knox had failed to act properly upon evidence that the elder-elect had initiated a declaration of his homosexuality. No declaration was made to the session. Additionally, the PPJC erred in substituting its judgment for that of the session. The SPJC also found the PPJC erred that a preponderance of evidence existed that the elder was self-affirming. The PPJC also improperly amended the complaint (Synod of the Covenant Minutes 1997:207). The SPJC reversed the decision of the PPJC (:210). Riefle filed an appeal with the GAPJC, but withdrew the appeal in March 1998. The complaint was dismissed (PC(USA) Minutes 1999:831).

5.25.1 Summary

The 1997 PJC of the Synod of the Covenant, in *Riefle v. Session of John Knox Presbyterian Church*, found that the ordination and installation of a gay man, whether sexually active or not, was allowed to stand. The ruling reaffirmed the 1978 “definitive guidance” that an ordaining body should not ask about a candidate’s sexual orientation or practice unless the candidate disclosed it to that ordaining body. The ruling was predicated on the 1993 GAPJC ruling in *Hope Presbyterian Church v. Central Presbyterian Church*.

The SPJC found no authoritative precedent to declare the ordination null and void. Even if an “irregularity” had occurred, and a sexually active gay, lesbian, or single heterosexual person was ordained, G-14.0203 (currently G-14.0210) provided that their ordination could not be nullified, except as a result of disciplinary action. The ordination to the offices of deacon, elder, and minister is perpetual, thus, even if those ordained were sexually active single persons and in defiance of the Constitution, they could not be removed from office, except through disciplinary action.

5.26 The 210th General Assembly of the PC(USA) in 1998

Just before the 1998 General Assembly meeting, the Stated Clerk, Kirkpatrick, convinced the leaders of the Covenant Network and Presbyterian Coalition to issue a "call to a sabbatical," i.e. not send further overtures to amend the Constitution and not to initiate judicial confrontation (Kirkpatrick *et al* 1998). However, overtures still came from the conservatives and liberals, and about ninety congregations created a More Light Network that threatened to ordain partnered gay and lesbian Christians in defiance of the Constitution.

5.26.1 Overture Not to Exclude Any Person on the Basis of That Person's Class or Category

The Presbytery of Chicago sent Overture 97-24 in 1997, requesting the General Assembly issue an Authoritative Interpretation that it was a violation to exclude someone from membership and leadership based on a class or category of persons. Second, the 1978 and 1979 "definitive guidance" was an erroneous interpretation of the Constitution in that it only required governing bodies to examine, and did not meet the requirement to be inclusive (:695). Third, the "definitive guidance" might be used, but it should not exclude any person on the basis of belonging to a specific category of persons, whether or not specified in the *Book of Order* (PC(USA) Minutes 1997:694, 1998:651).

The ACC noted that the overture attempted to overturn the GAPJC decisions that self-affirming, practicing homosexual persons could not be ordained. Further, it was individual action, not membership in a class, which established the barrier to ordination. The ACC also stated that the overture misinterpreted inclusiveness as absolute, e.g. the 1987 General Assembly decision and the 1985 GAPJC in the Blasdell ruling. The ACC advised the General assembly not to approve the overture (PC(USA) Minutes 1997:173), but the General Assembly referred it to the 1998 meeting (:90).

In 1998, the ACC again advised that Overture 97-24 not be approved (PC(USA) Minutes 1998:167). The Assembly Committee on Church Orders and Ministry (ACCOM) presented an alternative resolution, which the General Assembly approved by a 355-92 vote (Van Marter 1998c:1):

> That the 210th General Assembly (1998) approve the following authoritative interpretation of G-6.0106 and G-4.0403: "Standing in the tradition of breaking down the barriers erected to exclude people based on their condition, such as age, race, class, gender, and sexual orientation, the Presbyterian Church (U.S.A.) commits itself not to exclude anyone categorically in considering those called to ordained service in the church, but to consider the lives and behaviors of candidates as individuals" (PC(USA) Minutes 1998:68).

Thus, the 1998 General Assembly issued an Authoritative Interpretation, and did not approve another amendment to delete G-6.0106b and send it to the presbyteries. The Authoritative Interpretation affirmed the church's policy that sexual orientation, specifically a gay or lesbian orientation, was not a barrier to ordained service. However, sexual practice of one's gay or lesbian orientation would still prohibit one from ordination and/or installation. In practice, if a candidate declared to an ordaining body that they had a gay or lesbian orientation, but were not in a partnered relationship, they had to be examined and considered for ordination and/or installation.

The 1998 Authoritative Interpretation forced the ordaining bodies to see gay and lesbians as individuals, and not just as a category of people who should be automatically excluded. Therefore, when interviewing candidates for ordination and/or installation, the focus should not be on their age, race, class, gender or sexual orientation, but on their lives and behaviours as individuals.

5.26.2 Overtures on Amending G-13.0103r

The issue from 1997 regarding G-13.0103r in the *Book of Order* - who should issue an Authoritative Interpretation - spilled over into the 1998 General Assembly meeting. Overtures 98-10, 98-17, and 98-35 tried to amend G-13.0103r and, again, showed the different point of views. Overture 98-10 wanted to give the power to make an Authoritative Interpretation to the General Assembly (PC(USA) Minutes 1998:657-658). Overture 98-17 wanted to make the General Assembly's interpretations only advisory and nonbinding, and the interpretations of the GAPJC

authoritative and binding (:660-661). Overture 98-35 wanted all Authoritative Interpretations to be guidance and not binding (:672). The ACC replied to these overtures with its comments of 1993 and 1997 regarding Authoritative Interpretations (:153-155, 160-161).

The Assembly Committee on Church Polity suggested that the three overtures be disapproved and the advice of the ACC of 1993 and 1997 be followed. The 1993 Authoritative Interpretation - the three ways in which constitutional law could be formulated - was reaffirmed. The Committee reminded the General Assembly of the 1997 ACC advice (PC(USA) Minutes 1998:61, see Chapter 5.24.4).

5.26.3 Overture on a More Truthful and Accurate Translation of the Heidelberg Catechism

The Presbytery of Utah sent Overture 98-34 requesting that the inclusion of the anachronistic word “homosexual” in the Heidelberg Catechism be corrected (PC(USA) Minutes 1998:672). The Advocacy Group for Women’s Concerns sent Communication 98-34 also requesting “homosexual perversion” be deleted (:709). The Assembly Committee on Catechism and Confessions delivered their report, but the General Assembly voted to disapprove the overture and communication (:85). This issue would come repeatedly to the General Assemblies.

5.26.4 The Special Committee on Relationships of Accountability between the PC(USA) and Presbyterian Groups

The Special Committee on Relationships of Accountability between the PC(USA) and Presbyterian Groups was formed by the 1996 General Assembly and delivered its Report in 1998. After describing the whole history of Chapter IX groups from 1902-1990 (PC(USA) Minutes 1998:619-623), the Committee made several recommendations (:624). However, the General Assembly disapproved the Report and dismissed the Committee (:71). Once again, no action was taken and the situation

with special organisations, including the PLC, was not resolved and the tension continued.

5.26.5 Summary

The 1998 General Assembly reaffirmed the position of the 1993 General Assembly, which issued an Authoritative Interpretation on G-13.0103r, that there were three ways in which constitutional law was formulated: 1) Through the *Book of Order*; 2) Through the decisions of the GAPJC; 3) Through an Authoritative Interpretation by the General Assembly. Despite the fact that any Authoritative Interpretation issued by the GAPJC was limited to the scope of the case at hand, they were a significant part of the process to formulate constitutional law.

The General Assembly also issued an Authoritative Interpretation on G-6.0106b that one's sexual orientation did not exclude one categorically from ordained office, but that ordaining bodies should consider the lives and behaviours of candidates as individuals. This reaffirmed the Presbyterian Church's view from 1978 that sexual orientation did not exclude one from office, but sexual practice did.

5.27 The GAPJC Ruling in *Wier v. Session of Second Presbyterian Church of Fort Lauderdale, FL*. Remedial Case 211-2 in 1998

The Session of Second Presbyterian Church of Fort Lauderdale, Florida (Second), on 19 December 1995, examined candidates after they had been nominated by the Nominating Committee and elected by the congregation. Mr. R L Wier, an elder on the session, moved to disapprove Mr. R Whetstone's examination, but the motion died for lack of a second. Wier did not file a remedial complaint against Second's decision to ordain Whetstone as an elder, nor attempted to obtain a stay of enforcement to prevent the ordination from taking place in January 1996. Whetstone had formerly been ordained as deacon in 1993. Both Wier and Second stipulated to the fact that they knew Whetstone was actively engaged in a committed gay relationship with another male (PC(USA) Minutes 1999:831).

After the ordination, Wier filed a complaint in March 1996 with the PJC of the Presbytery of Tropical Florida (PPJC) (PC(USA) Minutes 1999:831). The PPJC heard the case in April 1997 and ruled the ordination of Whetstone as elder was an irregular act. The session was admonished to refrain from ordaining anyone who was a self-affirming, practicing homosexual person. Since it was a remedial case, the PPJC was without authority to declare the ordination of Whetstone null and void, and held that his ordination stood pursuant to G-14.0203 (currently G-14.0210) (:832); the office of elder was perpetual and could not be laid aside except in a disciplinary case.

Wier appealed the decision to the PJC of the Synod of South Atlantic (SPJC), seeking nullification of the ordination and complaining about procedural matters. The SPJC, in November 1997, declined to sustain Wier's specifications and he appealed to the GAPJC. The GAPJC made its ruling after the trial on 8 August 1998. Wier had four specifications of error, of which only the first is important. Wier argued that the SPJC erred in holding that an irregular ordination may not be annulled through a remedial action. The GAPJC did not sustain the specification. The issue was not whether the ordination was irregular, but if it could be annulled. The GAPJC ruled that an ordination "may not be annulled through a remedial action" (PC(USA) Minutes 1999:832). G-14.0203 (currently G-14.0210) provided that the offices of deacon and elder were perpetual. Thus, the SPJC decision was correct that removal from office could only be through an individual found guilty in a disciplinary case (ibid).

The GAPJC had dealt with irregular ordinations before, and it reaffirmed the position of the 1993 GAPJC in *Hope Presbyterian Church v. Central Presbyterian Church*. In this similar case, regarding irregular ordination, the GAPJC recognised the ordinations were not in accordance with constitutional law, but they must stand in accordance with the *Book of Order* G-14.0203 (see PC(USA) Minutes 1994:142). In neither the Hope ruling nor the Wier I ruling had any relevant precedent been cited to contradict this historic position (PC(USA) Minutes 1999:832).

To affirm this point, the GAPJC referred back to the Report of the *Special Commission of 1925*, adopted in 1927, which directly addressed the questions, "What

is a constitutional ordination? How can a proposed ordination be arrested before consummation? And after consummation . . . is it revocable?" (PCUSA Minutes 1927:68). The appropriate means to prevent an ordination, until a higher governing body may review the case, was through a stay of enforcement. If a stay was granted, but the ordaining body proceeded nevertheless, then the ordaining body was liable to censure, and the pretended ordination would be invalid. When no stay of enforcement was sought or granted, the ordination could not be invalidated and the ordaining body might be disciplined for erroneous action. The proper method of proceeding against the newly ordained officer was to lay charges against the officer personally, and the substantive charges should be based upon facts coming to the knowledge of the higher governing body subsequent to the ordination (:69). According to the GAPJC, this occurred through disciplinary action (PC(USA) Minutes 1999:833).

Note the use of "substantive charges" and "*subsequent* to the ordination" in the Report. This has not been honoured by sessions, presbyteries, and PJCs when remedial charges have been filed against sessions or individual officers after the ordination and/or installation had taken place. Up to the 1998 Wier I ruling, the 1927 decision was that the charges must be substantive and, when subsequent to ordination and/or installation, must be disciplinary, not remedial.

The GAPJC stated that the Report supported its position regarding proper proceedings in stating:

> The most convincing fact of all is that the General Assembly, in all its history has never nullified an ordination nor revoked one by the process [of remedial action] . . . . In all the cases brought before our highest tribunal, the Assembly invariably has stopped short of rescinding an ordination or licensure complained of, or of ordering a Presbytery to do so . . . . It would be a radical departure if we were to change this practice covering two centuries of time without some positive mandate from the Presbyteries (GA Minutes, 1927, pp. 70-71) (PC(USA) Minutes 1999:833).

Thus, the GAPJC concluded Wier failed to exercise the available remedy through a stay of enforcement of the ordination at the appropriate time. The annulment of an irregular, consummated ordination through remedial action would inevitably erode foundational due process protections afforded individuals by the Constitution. Therefore, the GAPJC exhorted the church not to provoke disciplinary proceedings

through irregular ordinations or to initiate disciplinary actions vindictively. The decision of the SPJC was affirmed (PC(USA) Minutes 1999:833).

5.27.1 Summary

This ruling is designated as the Wier 1 or Wier I ruling of 1998 to separate it from the Wier 2 or Wier II ruling from 2002, when Wier filed a second complaint against the Session of Second Presbyterian Church of Fort Lauderdale, Florida (Second). The Wier I ruling was clear that a party should ask for a stay of enforcement before the ordination or installation of a partnered gay or lesbian Christian took place, not after the fact. Technically, the GAPJC had several times upheld that ordinations and/or installations of partnered gay and lesbian Christians were possible, despite it violating *Book of Order* G-6.0106b, if the stay of enforcement was not requested in time. Then the ordination and/or installation of an officer, although irregular, stood. The GAPJC, in both the Hope and Wier I rulings, had no choice but to uphold another part of the Constitution; the *Book of Order* G-14.0203 (currently G-14.0210), states that the offices of elder and deacon are perpetual and an ordination, even though irregular, cannot be annulled through remedial action, but only through disciplinary action.

The GAPJC did not elaborate on the issue of “subsequent knowledge,” yet the issue would come to the foreground when Wier filed a second complaint against the session in February 1998 regarding the irregular ordination of a practicing homosexual person (PC(USA) Minutes 2002:339-341, see Chapter 5.35).

5.28 The 211th General Assembly of the PC(USA) in 1999

The 1999 General Assembly dealt with the fallout over the Women of Faith award, overtures on G-6.0106b, and conversion therapy.

5.28.1 The Women of Faith Award and Rev. Dr. J A Spahr

Prior to the 1999 General Assembly meeting, Rev. Dr. J Spahr received the Women of Faith award. The conservative San Joaquin Presbytery petitioned the GAC to rescind Spahr's award. The head of the National Ministries Division, C Kearns, who oversaw the Women's Ministry Unit, revoked the award. The Executive Committee of the GAC overturned the decision with a 9-2 vote. Next, the Shenango Presbytery protested the Executive Committee's decision and sent a resolution to the GAC asking that it declare the action of its Executive Committee unconstitutional. However, the GAC did not have that authority (Smith 1999c, cf. Filiatreau 1999a, Filiatreau & Van Marter 1999).

At the 1999 General Assembly meeting, the GAC supported its Executive Committee by a 41-40 vote. This controversy and close vote prompted the GAC to approve a "pastoral letter" to the General Assembly, insisting the vote was not an endorsement of "anyone's position for or against the policies and standards of our Church" (Smith 1999c). Ironically, one of the other recipients, Dr. L M Russell, a professor at Yale Divinity School, also was openly lesbian, yet, only Spahr's nomination drew fire (ibid). Such was the climate within the PC(USA) that conservatives threatened they would leave if Spahr was awarded, given her open defiance of the Constitution as a partnered lesbian minister.

5.28.2 Overtures on G-6.0106b

The Presbytery of Milwaukee sent Overture 99-2 requesting that G-6.0106b be deleted, in light of the Authoritative Interpretation of the 1998 General Assembly on G-6.0106b. The ACC concluded that the overture would not change the current position of the church or change past judicial actions on the matter (PC(USA) Minutes 1999:575). The Presbyteries of Saint Andrews and Philadelphia sent Overture 99-27 and 99-30, respectively, to clarify some language in G-6.0106b to bring it into conformity with the constitutional questions of G-14.0207d (currently W-4.4003d) that obedience was required to Jesus Christ, under the authority of Scripture and guidance of the Confessions (:610, 612-613).

The ACCOM, however, did not stay with the suggested sabbatical (see Chapter 5.26), but recommended that G-6.0106b be deleted (Lancaster 1999b:1) by a 24-14 vote (Van Marter & Lancaster 1999:1). It is important to note that even if G-6-0106b was deleted, the Authoritative Interpretation of 1993 of the "definitive guidance" of 1978 and 1979 would still stand as an interpretation of the Constitution. Just deleting G-6.0106b was not sufficient to change ordination standards.

On the floor of the General Assembly, the minority report, requesting two more years of study and discussion, was approved by a 319-198 vote (Lancaster 1999c:1). With this vote, the General Assembly did not approve any overtures regarding ordination standards (PC(USA) Minutes 1999:59).

5.28.3 Overture on Conversion Therapy

The Presbyteries of Detroit and New York City, respectively, sent Overtures 99-34 and 99-56, requesting that the church repent from its sin of homophobia and refrain from supporting therapies and ministries wanting to change a person's sexual orientation (PC(USA) Minutes 1999:618-619, 650-651). The Presbytery of Prospect sent Overture 99-73 in support of conversion therapy (:672-673). The Assembly Committee on Social Witness Policy (ACSWP) suggested different language (:651), and the General Assembly approved the following resolution:

> The 211th General Assembly (1999) affirms that the existing policy of inclusiveness welcomes all into membership of the Presbyterian Church (U.S.A.) as we confess our sin and our need for repentance and God's grace. In order to be consistent with this policy, no church should insist that gay and lesbian people need therapy to change to a heterosexual orientation, nor should it inhibit or discourage those individuals who are unhappy with or confused about their sexual orientation from seeking therapy they believe would be helpful. The Presbyterian Church (U.S.A.) affirms that medical treatment, psychological therapy, and pastoral counseling should be in conformity with recognized professional standards (:80).

This resolution reaffirmed that gay and lesbian Christians were to be welcomed into membership and should not be forced to have conversion therapy to change their sexual orientation to a heterosexual orientation.

5.28.4 Summary

The 1999 General Assembly issued a resolution that gay and lesbian Christians should not be forced to undergo conversion therapy. Although the resolution did not explicitly state it, this writer believes the resolution implied that gay and lesbian Christians should also not be discouraged from seeking therapy, which might include conversion therapy. In this writer's view, it was a fair and balanced decision. There is evidence to suggest that conversion therapy works for some persons, but it should not be forced on gay and lesbian Christians as if everyone should have a heterosexual orientation. The Presbyterian Church frequently acknowledged that sufficient evidence exists that persons may be born with a same-gender orientation.

The General Assembly decided not to send an amendment to G-6.0106b to the presbyteries, rather opting for two more years of study and discussion.

5.29 The GAPJC Ruling in *Benton, et al. v. Presbytery of Hudson River.* Remedial case 212-11 in 2000

The South Presbyterian Church in Dobbs Ferry, New York (South Church) published an article concerning a same-gender holy union service in August 1998. The Session of Bethlehem Presbyterian Church, New York (Bethlehem), where Rev. M G Benton served as minister, wrote to the Stated Clerk of the Presbytery of Hudson River, requesting that the presbytery investigate, counsel, and, as necessary, discipline the ministers and the Session of South Church and take steps to preclude any further such ceremonies there (PC(USA) Minutes 2000:586).

The presbytery Council appointed a Special Administrative Review Committee (SARC) at its October 1998 meeting. Following meetings with both South Church and Bethlehem Church, the committee presented its report to the Council in January 1999. The Council received the report, and recommended that dialogue between the two churches continue. The Council also passed this motion to provide clarity and leadership:

> . . . that the Presbytery affirm the freedom of any session to allow its ministers to perform ceremonies of holy union (within or outside the confines of the church sanctuary) between persons of the same gender, reflecting our understanding at this time that these ceremonies do not constitute marriage as defined in the Book of Order (PC(USA) Minutes 2000:586).

At the stated meeting of the presbytery on 30 January 1999, the Moderator of the Council presented the report of the SARC, including the motion at issue (PC(USA) Minutes 2000:586). Several sources state the date as 10 June, but it does not fit the timeline. The vote to approve the Council's motion was 105-35 (Adams 1999c:1, 1999e:1; Filiatreau 1999b:3). A written protest was received. Seven ministers and eight sessions (Benton *et al*) initiated this remedial case against the presbytery by complaint in April 1999 with the PJC of the Synod of the Northeast (SPJC). In August, the appellants' counsel submitted a formal request, with supporting statements, for pre-trial citations to the two pastors at South Church, along with a request for their production of certain minutes, papers, and other effects from South Church (PC(USA) Minutes 2000:586). The Executive Committee of the SPJC denied this request by letter, and the SPJC affirmed this ruling at its meeting on 7 October 1999 (:586-587). DeGeorge, a member of the SPJC, recused herself from the hearing (Adams 1999e:2).

A trial was held on 4 November 1999. The appellants renewed their request for trial citations, which the SPJC denied. The counsel for the appellants, Mr. J Poppinga, argued that the G-6.0106b fidelity and chastity clause applied (Adams 1999e:2). Dr. J Burgess, from the conservative Pittsburgh Theological Seminary, argued that the fidelity and chastity clause was a moral standard for members just as it was an ordination requirement for officers. This is the most ridiculous and deliberate misuse of G-6.0106b by a conservative theologian, claiming that G-6.0106b applied to membership as well. Burgess further claimed holy unions of same-gender couples violated the Constitution and should not be permitted. Again, there was no factual basis for this claim. Mr. J P Scavarda provided evidence that the pastors of South Church had called these services "marriages" and used the phrases "holy unions" and "marriages" interchangeably. (:3). Also, Revs. S DeGeorge and J Gilmore had told news reporters they had performed about fifteen holy unions for same-gender couples at South Church (: 2).

The SPJC concluded that the Presbytery of Hudson River's motion did not constitute an irregularity, citing the testimony of those present at the presbytery meeting that the motion was not intended to authorise same-gender marriages. The SPJC also rejected the appellants' argument that existing provisions of the Constitution prohibited same-gender ceremonies. The SPJC concluded that the Constitution "does not address" these ceremonies. The SPJC further rejected the appellants' argument to extend existing provisions of the Constitution to prohibit same-gender ceremonies. Their view was that "the plain language of the motion . . . states that it is not authorizing marriage ceremonies between persons of the same sex" (PC(USA) Minutes 2000:587). The motion by the presbytery to affirm the freedom of any session to allow its ministers to perform ceremonies of holy union for same-gender couples was not contrary to fundamental Presbyterian belief and practice (Filiatreau 1999b:1).

The SPJC also pointed out that it was not a legislative body, and if such services were to be prohibited, it should be through legislation, not by constitutional interpretation. The proper way to amend the Constitution was for the General Assembly to present an amendment to the presbyteries for their affirmative or negative votes (Filiatreau 1999b:1).

Additionally, the SPJC concluded that the presbytery's motion did not violate the constitutional injunction in W-4.9004, not W-4.9001 which the PPJC incorrectly stated; namely, Christian understanding of marriage was not to be diminished. According to the SPJC, W-4.9004 addressed additions to the marriage ceremony and did not apply to ceremonies of same-gender union. The SPJC rejected the appellants' argument that the presbytery's motion improperly authorised sessions to approve acts of worship which impermissibly simulated Christian marriage or were otherwise contrary to the Constitution. Last, the SPJC rejected the appellants' argument that the presbytery had improperly approved the use of church property contrary to the Constitution, based on its prior conclusion that the Constitution "does not prohibit same-sex unions that are not the same as marriage" (PC(USA) Minutes 2000:587). The vote was 7-3 (Filiatreau 1999b:1).

Two members, Rev. Dr. D Weaver and Rev. C C Kerewich, wrote a dissent, stating that although the *Book of Order* lacked specific reference to same-gender unions, it should not be interpreted as an endorsement of these ceremonies (Adams 1999e:1). The moderator of the SPJC, Rev. F L Denson, wrote a dissent claiming holy unions were a manifestation of homosexual practice, which the General Assembly had deemed to be a sin (see PC(USA) Minutes 1996:79). Therefore, the presbytery's action to sanction this sinful behaviour was erroneous (Adams 1999g:2).

Interestingly, Weaver was the co-moderator of the New Wineskins Association of Churches (NWAC), which was a group discerning whether to break away from the PC(USA) and join the EPC after the 2005 *Peace, Unity, and Purity* Report was approved by the 2006 General Assembly (Hill 2006a:1). Weaver's congregation voted to join the EPC in 2008 and he transferred his membership. Denson, who has remained outspoken against partnered gay and lesbian ordination and/or installation, and same-gender blessings and marriages, is the current the Moderator of the GAPJC.

Benton *et al* appealed the SPJC ruling to the GAPJC, citing five specifications of error. First, the SPJC erred in failing to rule that existing provisions of the Constitution and the effect thereof do not allow a presbytery to permit ministers to solemnise same-gender unions, either on or off church property. The specification was not sustained. The GAPJC found that none of the provisions of the Directory for Worship upon which the appellants relied prohibited the conduct of same-gender ceremonies that were not the same as marriage ceremonies. Ceremonies of "union" between persons of the same gender were governed by the 1991 General Assembly's Authoritative Interpretation. The GAPJC found the argument unpersuasive that G-6.0106b was a foundational standard derived from the Confessions, and it should be applied to standards for worship as well (PC(USA) Minutes 2000:587).

G-6.0106b spoke only to ordination, and its adoption did nothing to change the constitutional interpretation concerning worship practices set out in the 1991 Authoritative Interpretation. The GAPJC quoted the 1991 General Assembly Minutes pages 55, 57, and 395 regarding same-gender ceremonies (PC(USA) Minutes 2000:587) which clearly showed the Benton *et al* claim had no merit.

Second, the SPJC erred in its conclusion that because same-gender union ceremonies were not specifically named in the Constitution as disallowed, it could not rule that they were constitutionally impermissible. This specification was not sustained. The GAPJC stated this specification of error misconstrued the decision of the SPJC. The SPJC did not reject the general principle that it had jurisdiction to address the constitutionality of actions which were not specifically named in the Constitution. The SPJC simply chose not to extend the provisions of the Constitution, and specifically G-6.0106b, beyond the stated scope of applicability (PC(USA) Minutes 2000:587-588).

Third, the SPJC erred in its conclusion that the Christian understanding of marriage was not impaired by ceremonies of same-gender unions. This specification was sustained in part and not sustained in part. The GAPJC found both parties erred in applying the Authoritative Interpretation categorically and without distinction. Some same-gender ceremonies could be the equivalent of a marriage ceremony and, therefore, would contravene the *Book of Order*, while some might not. “A determinative distinction between a permissible same-gender ceremony and a marriage ceremony is that the latter confers a new status whereas the former blesses an existing relationship.” The GAPJC admonished that W-4.9004 and similar pronouncements, declaring a new status, were to be reserved for services of marriage (PC(USA) Minutes 2000:588).

The GAPJC advised, that based on this theological distinction, there should be a liturgical distinction in services blessing a same-gender relationship. The 1991 Authoritative Interpretation left it to the judgment of individual ministers and sessions, if on site, whether to conduct same-gender ceremonies. They should take special care to avoid any confusion of such services with services of Christian marriage. Ministers should not use liturgical forms from services of Christian marriage or services recognising civil marriage in the conduct of such ceremonies (PC(USA) Minutes 2000:587).

The GAPJC, however, did not specify what these liturgies for same-gender blessing should look like, or instruct any committee to write such liturgies. The GAPJC left the liturgical distinction wholly up to the ministers who perform these blessings and

the sessions who allow them to occur on church property. Currently, no Presbyterian-sanctioned, same-gender blessing liturgies or guidelines exist. What then constitutes "confusion of such services with services of Christian marriage?" The GAPJC did not specify any practices and rituals associated with marriages, which should not be present at same-gender blessings, but only specified the liturgy. Can two men wear black suits, or two women wear white dresses? Can there be flowers, flower girls, or ring bearers? Can there be a blessing of the rings, a formal exchange of vows, an announcement of the relationship, and a final kiss?

The GAPJC did nothing to clarify the liturgical difference, or the practical and ritual difference, between a same-gender blessing and a heterosexual marriage, but left it to the subjective judgment of the minister. It, therefore, also leaves it to the subjective judgment of any witness to the same-gender blessing to decide it might have been heralded as a blessing, but, in fact, it was a liturgical same-gender marriage, even if the word marriage or marriage liturgy was not used. The conservatives in the PC(USA) have for the longest time coined the phrase regarding same-gender blessings: "If it walks like a duck and quacks like a duck, it must be a duck."

Ministers should also instruct same-gender couples that the service to be conducted did not constitute a marriage ceremony and should not be held out as such (PC(USA) Minutes 2000:587). The GAPJC made it clear that a minister could not perform a same-gender marriage; it would be a violation of the Constitution.

The GAPJC gave a reminder that the Directory for Worship affirmed the value of worship services in the practice of pastoral care, and gave great latitude to ministers and sessions in addressing the pastoral care of members. A same-gender ceremony celebrated a loving, caring, and committed relationship. "Such a same-sex ceremony does not bless any specific act, and this decision should not be construed as an endorsement of homosexual conjugal practice proscribed by the General Assembly" (PC(USA) Minutes 2000:588). Therefore, the GAPJC judged that the motion adopted by the presbytery was in error, because it failed to distinguish between permissible and impermissible same-gender ceremonies (ibid).

Fourth, the SPJC erred in refusing to present evidence and testimony whether the format, framework, and venue of a marriage service may properly be put to the purpose of solemnising a same-gender union. This specification was not sustained. The GAPJC reminded the appellants that their complaint was against the action of the presbytery, and not a remedial case against the Session of South Church or a disciplinary case against its ministers. The SPJC, therefore, properly concluded the requested evidence was not relevant (PC(USA) Minutes 2000:588).

Fifth, the SPJC erred in failing to rule that the performance on church property of same-gender union ceremonies contravened the constitutional proscription against the use of property contrary to the Constitution. It was not sustained (PC(USA) Minutes 2000:588).

The GAPJC ruled on 22 May 2000 that since the presbytery's motion failed to make the necessary distinction outlined in this decision, it reversed the decision of the SPJC (PC(USA) Minutes 2000:587).

5.29.1 Summary

The 2000 GAPJC ruling in the Benton decision was a landmark decision regarding same-gender unions. One must take note that it was a remedial case and could not be used in a disciplinary case (see Chapter 5.59 *Spahr v. Presbyterian Church (U.S.A.) through the Presbytery of Redwoods*). It complemented the 1991 General Assembly's Authoritative Interpretation that same-gender unions were permissible, as long as they were not considered the same as marriage ceremonies. However, liturgical same-gender marriages, according to the 1991 Authoritative Interpretation and 2000 Benton ruling, were not forbidden, but ". . . it would not be proper for a minister . . . to perform a same sex union ceremony that the minister determines to be the same as a marriage ceremony." It seemed that if a minister did perform a same-gender marriage, which at that stage could not be performed in any state in the United States and no new status could be conferred anyway, it could be argued that such a marriage was not strictly forbidden or impermissible by the Authoritative Interpretations.

The ruling irked the conservatives, who unsuccessfully tried to block same-gender unions and blessings through changes in the *Book of Order* W-4.9001. The conservative The Presbyterian Layman complained that the GAPJC used "should" language three times, which did not compel compliance from ministers performing same-gender unions, and not a single "shall" or "must" which did. "Should" and "should not" are considered more a recommendation than a requirement, and leave little opportunity for remedial or disciplinary action in same-gender union services (Adams 2000c:1). This writer views the GAPJC's use of "should" as part of the long history of not over-legislating what is permissible and what is impermissible, but allowing governing bodies and ministers to exercise freedom of conscience. The question remains whether "should" and "should not" – rather than SHALL - are flat-out requirements or prohibitions, which conservatives contend, or if "SHOULD signifies practice that is strongly recommended" (Preface to the *Book of Order*).

5.30 The GAPJC Ruling in *Sheldon, et al. v. Presbytery of West Jersey.* Remedial case 212-12 in 2000

In 1999, the Presbytery of West Jersey (Presbytery) interviewed an inquirer, Mr. G Van Keuren, to advance to candidate (Adams 1999d:1). Van Keuren stated he was currently a celibate gay, but "I understand that I am called into a loving, same-sex monogamous relationship" and "I intend to participate in a fully sexual way in any future relationship" (PC(USA) Minutes 2000:589). On 16 March 1999, the presbytery approved him as candidate by a vote of 81-61. The CPM stated they had explicitly told Van Keuren that if he became sexually active, he would not be eligible for ordination (Adams 1999d:1).

Eighteen individuals and five sessions (Sheldon *et al*) filed a complaint with the PJC of the Synod of the Northeast (SPJC), alleging the presbytery's action to receive Van Keuren was in contravention of the Constitution and/or was "erroneous." The complainants argued that the candidate should not have been advanced to candidacy, because he did not meet or was not prepared to meet certain requirements to hold office, including G-6.0106 and G-6.0108 (PC(USA) Minutes 2000:589). The counsel for the presbytery, Mr. J Reisner, stated nothing in the Constitution specifically

forbade the presbytery from accepting a practicing homosexual as candidate for the ministry (Adams 1999f:2).

The SPJC declined to sustain the complaint by a vote of 7-2 (Adams 1999f:1). They argued that while a candidate must be able to meet the Constitution's standards for ordination as a condition of ordination, a presbytery may receive an "inquirer who may still move into compliance while being nurtured in the covenant relationship as a candidate" (PC(USA) Minutes 2000:589). They believed G-6.0106b did not apply to someone who wished merely to be considered for ministry (Filiatreau 1999b:1).

Sheldon *et al* appealed the ruling to the GAPJC and had one specification of error. They claimed the SPJC erred in its interpretation of the Constitution in not reversing the presbytery's decision to receive the candidate, since he was not prepared to meet the requirements of G-6.0106a, G-6.0106b, and G-6.0108b; he was determined to engage in and not repent of a practice in violation of G-6.0106b; and he could not give an affirmation as required in G-14.0305g (currently in the Advisory Handbook, see G-14.0402). This specification was not sustained (PC(USA) Minutes 2000:589).

The GAPJC found that since the presbytery had not yet conducted a final assessment of Van Keuren's readiness to begin ministry, G-6.0106b was not applicable. The 1992 LeTourneau ruling regarding Larges applied here, wherein a candidate, not currently eligible for ordination, may remain a candidate under care of the presbytery until such time as the CPM was satisfied that the candidate could be properly certified as ready to receive a call. The evidence showed Van Keuren had not violated the standards of G-6.0106b or G-6.0108b (PC(USA) Minutes 2000:590). G-6.0106b did not apply to candidates, but only to those being considered for ordination.

On 22 May 2000, the GAPJC reaffirmed that the presbytery had the right to advance an inquirer to candidacy. Since Van Keuren acknowledged his celibacy and was qualified, the presbytery's determination that he was ready to proceed to candidacy was reasonable. He answered affirmatively the four questions specified in G-14.0305f of candidates (currently in the Advisory Handbook, see G-14.402). The SPJC had properly determined the candidate was not in violation of G-6.0106 or G-

6.0108. However, if the presbytery should determine Van Keuren to be ineligible for candidacy at some point in the future, the presbytery should remove his name from the roll of candidates, as provided by G-14.0312 (currently G-14.0463). The GAPJC affirmed the decision of the SPJC (PC(USA) Minutes 2000:590).

5.30.1 Summary

The 2000 GAPJC in the Sheldon ruling reaffirmed sexual orientation was not a bar to advancing to candidacy or ordination, but sexual practice was. Since Van Keuren was celibate, G-6.0106b simply did not apply. Despite his statement regarding a possible future partnered relationship, the GAPJC dealt with the current situation. If he entered into a partnered relationship while a candidate, then G-6.0106b would apply, and the presbytery would have to act and revoke his candidacy status.

Right after the rulings in Benton and Sheldon, and in the midst of the Londonderry trial (see Chapter 5.32), the Stated Clerk, Kirkpatrick, and Moderator, F Gardner, sent a pastoral letter to the whole church, emphasising that these rulings upheld current policy. They affirmed that the “fidelity in marriage and chastity in singleness” standard applied to officers, but not to membership or to the various steps which might lead to ordained office, such as candidates (Kirkpatrick & Gardner 2000:2).

5.31 The 212th General Assembly of the PC(USA) in 2000

The sabbatical on ordination issues continued and overtures were deferred to 2001. But, for the second time since 1995, the General Assembly would send a vote on same-gender unions to the presbyteries.

5.31.1 Overtures on Prohibiting Same-Gender Unions or Ceremonies

Three overtures were received after the Benton ruling which occurred prior to the 2000 General Assembly meeting. The Presbytery of Tampa Bay requested, in

Overture 00-12, that new sections in the *Book of Order* be added to prohibit ministers from performing or blessing same-gender unions or ceremonies and church property should not be used (PC(USA) Minutes 2000:370-371). The Presbyteries of San Joaquin and Charlotte sent Overtures 00-26 and 00-54, respectively, requesting a new W-4.9007 be added (:394-395, 431-432). This was the fifth time in ten years that this issue was dealt with at the General Assembly.

The ACC replied to the three overtures with its reply from 1991 on same-gender unions, which was approved as an Authoritative Interpretation by the 1991 General Assembly (see Chapter 5.12.1). It suggested the General Assembly not approve the overtures (PC(USA) Minutes 2000:372, 432), but the Assembly Committee on Physical and Spiritual Well-Being, by a 25-22 vote, presented a majority report approving Overture 00-26, which the General Assembly approved by a 268-251 vote (Van Marter 2000f:1). The seventeen-vote margin shows how closely divided the commissioners were on the issue.

Amendment 00-O asked the presbyteries to approve a new W-4.9007 to the *Book of Order*:

> Scripture and our Confessions teach that God's intention for all people is to live either in fidelity within the covenant of marriage between a man and a woman or in chastity in singleness. Church property shall not be used for, and church officers shall not take part in conducting, any ceremony or event that pronounces blessing or gives approval of the church or invokes the blessing of God upon any relationship that is inconsistent with God's intention as expressed in the preceding sentence (PC(USA) Minutes 2000:59).

Amendment O would not just forbid ministers from performing same-gender unions, ceremonies and marriages, but also from blessing or participating in them. It would be inconsistent with a fundamental principle under which ministers perform their duties, that God alone is Lord of the conscience. It was called the "limits on prayer" amendment, the "confine the conscience" amendment and "quench the Spirit" amendment (TeSelle 2000:1).

The lobbying for approving or defeating Amendment O was fierce. Late in 2000, nineteen former moderators released a statement urging its defeat. The centrist Presbyterian Outlook's editor, Rev. R Bullock, even spoke out against it. In

December 2000, 113 presbytery executives issued a statement calling for a "third way" out of the impasse of sexual issues (Executive Presbyters 2000).

However, sanity prevailed and the 173 presbyteries rejected Amendment O with a 99-73 vote, with one presbytery taking no action (PC(USA) Minutes 2001:47). Thus, in 2001, the policy which governed same-gender blessings, unions and marriages was the 1991 Authoritative Interpretation, with the 2000 Benton decision that ministers could perform same-gender unions and blessings as long as there was a clear liturgical distinction and no confusion between it and heterosexual marriages.

5.31.2 Overture on the Inclusiveness of Membership

The Presbytery of Twin Cities Area sent Overture 00-60, requesting G-5.0103 be amended by adding "sexual orientation" to the list of people not to be excluded from membership. The overture wanted the *Book of Order* to clarify the church's policy that GLBT were welcome as church members (PC(USA) Minutes 2000:442).

The Assembly Committee on Church Polity, with a 37-8 vote, approved the overture. However, an amendment on the General Assembly floor to delete the entire non-discrimination list and replace with "for any" was approved (More Light Presbyterians 2001:1). The part of the text to be deleted is in strikeout and the inserted text is in italics:

> No persons shall be denied membership ~~because of race, ethnic origin, *sexual orientation*, worldly condition, or any other~~ *for any* reason not related to profession of faith (PC(USA) Minutes 2000:442).

This vague and generic affirmation ignored that race and economic factors have excluded many in the past, just as sexual orientation left people excluded. The unspecific wording ignored the prejudice which existed and still exists in the church.

The General Assembly sent it as Amendment 00-A to the presbyteries (PC(USA) Minutes 2000:62). This generic statement regarding membership was defeated by a 88-85 vote of the presbyteries (PC(USA) Minutes 2001:46). The *Book of Order* still does not mention "sexual orientation" and GLBT persons, or that GLBT persons are welcome to be church members. It is merely inferred by "any other reason" in G-

5.0103. Statements by various General Assemblies and GAPJC rulings that GLBT are to be welcomed as members are the only statements regarding their membership.

5.31.3 Overtures on G-6.0106b

The General Assembly received nine overtures regarding G-6.0106b and ordination standards, and voted to refer all these overtures to the 2001 General Assembly. It hoped all "governing bodies would refrain from initiating any judicial actions with respect to the issue of sexual orientation until the response of the 213th General Assembly (2001) is completed" (PC(USA) Minutes 2000:63). Thus, commissioners concurred with the 1999 General Assembly to have a two-year moratorium on amendments to G-6.0106b.

The Presbytery of Milwaukee sent Overture 00-43 requesting that if legislative action regarding ordination was delayed until 2001, the judicial action should also be delayed. The ACC pointed out that the General Assembly had no control over judicial matters and therefore the overture should be disapproved (PC(USA) Minutes 2000:417) and the General Assembly complied (:63). The GAPJC made a ruling in the Londonderry case merely weeks after the General Assembly ended.

5.31.4 Summary

The 2000 General Assembly dealt with several overtures which again showed the deeply divided positions in the church over ordination standards and the blessing of partnered gay and lesbian Christian relationships. The General Assembly's decisions, however, were inconsistent. On the one hand, it voted to send Amendment O to add a new section W-4.9007 to the *Book of Order* which would radically curtail ministers from blessing or participation in any same-gender unions or ceremonies, and bar congregations from making their property available. If this had been approved, the judicial cases which would have risen from such an amendment would have been astronomical. For the first time, a negative prohibition would have been written into the *Book of Order*.

On the other hand, the General Assembly voted to send an amendment to G-5.0103, Amendment 00-A, to the presbyteries, which specified that membership, should not be denied for any reason not related to profession of faith. Yet, it did not want to deal with ordination standards, but instead referred the overtures to the 2001 General Assembly.

The defeat of Amendment O by the presbyteries, as well as other issues, led to the creation of the Confessing Church Movement, consisting of various churches issuing confessional statements. They confessed three main issues: the marriage between a man and a woman was the only appropriate context for sexual activity; Jesus Christ was the sole way to salvation; and the Bible was infallible. The PLC helped spread the movement, and drafted a document which would require all employees of the PC(USA)'s national offices to sign loyalty oaths to these three statements (Smith 2001c:1).

The Stated Clerk, Kirkpatrick, issued Advisory Opinion Note 7, after Amendment O failed, explaining that W-4.9001, the 1991 Authoritative Interpretation, and the 2000 Benton ruling by the GAPJC were still in place (PC(USA) Constitutional Services 2002:1-3). Same-gender unions and ceremonies were permissible, but ministers and sessions had to follow all the constitutional guidelines. Thus, same-gender marriages, even though they did not legally yet exist, were impermissible.

5.32 The GAPJC Ruling in *Session of Londonderry Presbyterian Church, et al. v. Presbytery of Northern New England.* Remedial Case 213-2 in 2000

On 20 April 1997, the Session of Christ Church Presbyterian, Burlington, Vermont (Christ Church) adopted and issued a Resolution of Dissent (Resolution). The Resolution asserted that G-6.0106b, which would soon pass and become part of the *Book of Order*, was inconsistent with various other provisions of the *Book of Order* which affirmed inclusivity (PC(USA) Minutes 2001:577). Christ Church unanimously vowed to welcome all as members in the congregation and as officers, regardless of their sexual orientation. The Resolution was received by Presbytery of Northern New England at its stated meeting on 7 June 1997. A similar resolution was

submitted by Mid-Coast Church, Topsham, Maine. The presbytery authorised its moderator to appoint a committee to meet with the dissenting churches regarding the resolutions. At the presbytery meeting in March 1998, it adopted the recommendation of the committee. Since the presbytery could not affirm noncompliance with the *Book of Order*, it instructed the two sessions to conform to G-6.0106b and to report compliance by the March 1999 meeting (:578).

The Mid-Coast Church did not protest the presbytery order, but on 18 June 1998, Christ Church submitted a *Report of the Session* to the presbytery, stating it could not in good conscience comply with G-6.0106b "without harming deeply the church community that we have been called to lead." The Presbytery Council subsequently formed a Response Team, who, in December 1998, presented four alternatives for the presbytery to consider. The presbytery rescinded its action instructing the Christ Church to be in compliance with G-6.0106b (PC(USA) Minutes 2001:578). The vote was 46-32 (Mills 1998c).

A protest was filed objecting to the presbytery action, and a stay of enforcement was granted on 4 January 1999. The Session of Londonderry *et al* filed a complaint against the presbytery in March 1999 with the PJC of the Synod of the Northeast (SPJC). The SPJC held a trial on 8 October 1999 and found that the action of the presbytery, to rescind its previous motion, did not meet the requirements of G-11.0103t(3) to see that "orders of higher governing bodies are observed and carried out." The presbytery was required, at a minimum, to record in its minutes its disapproval of the session's action. They found that the motion to rescind was irregular because "an action fulfilling an affirmative duty of a governing body can only be in order if it leaves in place some other action . . . which fulfills that duty." The SPJC ordered the presbytery to work pastorally with the Session of Christ Church to bring them into compliance with the Constitution (PC(USA) Minutes 2001:578).

The presbytery appealed the decision to the GAPJC and the Session of Londonderry *et al* filed a cross-appeal. The presbytery claimed five specifications of error. First, the SPJC erroneously concluded that the presbytery's rescission constituted an irregularity, in that the stated intention of Christ Church and the action of the

presbytery were in compliance with G-6.0106b under the Authoritative Interpretation adopted by the 1998 General Assembly. This specification was not sustained. The 1988 Authoritative Interpretation required governing bodies to examine each officer-elect on the basis of individual character and behaviour, but it did not permit a governing body to disregard ordination standards mandated by the Constitution in the examination of those individuals (PC(USA) Minutes 2001:578, cf. PC(USA) Minutes 1988:68, 166).

Second and third, the SPJC erroneously concluded the presbytery's rescission constituted an irregularity, in that various other passages of the Form of Government were irreconcilable with the requirements of G-6.0106b, and G-1.0301a and G-6.0108 affirmed freedom of conscience with respect to matters addressed by G-6.0106b. These specifications were not sustained. The GAPJC ruled that it was not within the power of any governing body or judicial commission to declare a properly adopted provision of the Constitution to be invalid (PC(USA) Minutes 2001:578). The only appropriate way to change it would be through amending the Constitution. The *Historic Principles of Church Order* was explicit in that it was the right of the church both to make and enforce these standards (:579, see G-1.0302).

Fourth, the SPJC erred that presbytery's rescinding of the original order to comply with G-6.0106b was erroneous and irregular. The specification was sustained since the presbytery had the right to rescind a previous action. Fifth, the SPJC erred that another action was required of the presbytery. The specification was not sustained. It was not about the act of rescinding, but the oversight obligation of the presbytery. Although there was no accusation that Christ Church had improperly ordained or installed anyone, it gave reasonable basis for concern that violations may already have occurred or might occur. Therefore, at a minimum, the presbytery had to act (PC(USA) Minutes 2001:579).

The Session of Londonderry *et al* had four specifications of error, but abandoned two and rephrased the remaining two. The complainants claimed the SPJC erred in that the presbytery's rescinding violated the amendment process and abdicated its duties and responsibilities. Both specifications were not sustained (PC(USA) Minutes 2001:579-580).

The GAPJC discussed the paradoxical nature of Christian liberty, as it related to freedom of governing bodies to dissent from constitutional standards of faith and conduct. They acknowledged the natural tension between God alone being the Lord of the conscience, and the church being a covenant community. However, a formal declaration by a governing body not to comply with a constitutional provision exceeded the constitutional bounds of freedom of conscience and required a response from the higher governing body. The GAPJC found that the presbytery had neglected its duty (PC(USA) Minutes 2001:580).

On 7 July 2000, the GAPJC ruled:

> This Commission finds that there are no constitutional grounds for a governing body to fail to comply with an express provision of the *Constitution*, however inartfully stated. . . . Furthermore, no court in our denomination has the authority to amend the *Constitution* or to invalidate any part of it (PC(USA) Minutes 2001:580-581).

The SPJC ruled correctly that the presbytery's action was insufficient. Although the presbytery had the right to rescind its original order, it was delinquent in its oversight to counsel Christ Church not to violate the Constitution. However, the SPJC order to void the rescission and reinstate the original order was in error. The GAPJC affirmed the SPJC's decision with modifications. First, to reinstate the action of the presbytery rescinding its original order; second, to require the presbytery to exercise pastoral and administrative oversight over Christ Church to comply with the Constitution, and to warn Christ Church of the disciplinary consequences of non-compliance (PC(USA) Minutes 2001:581). One member of the GAPJC concurred with the majority's view, but dissented from the opinion that Christ Church's statement had violated the Constitution (:581-582).

The issue at stake was whether the intent to violate the Constitution was a violation. No evidence was presented that Christ Church, despite its Resolution, had defied the Constitution by ordaining and/or installing anyone who was a sexually active gay or lesbian. Two years after the GAPJC ruling, Haberer stated that declaring defiance does not actually break church law, and Hager, the Clerk of the PJC of Southern New England Presbytery, claimed that simply stating defiance was not an action subject to discipline (Adams 2002g:5)

The Stated Clerk, Kirkpatrick, did not, however, report to the General Assembly in 2001 how the GAPJC ruling had been handled by the presbytery and Christ Church, but only reported it in 2002, much to the dismay of conservatives (Adams 2002j:2).

For two years after the GAPJC ruling, the presbytery worked with Christ Church and reported "significant progress, however Christ Church would not retract its Resolution" (Kincaid 2002:1). As a result of this, and the Stated Clerk not reporting at the 2001 General Assembly, the Presbytery of Shenango sent Overture 02-59 to the 2002 General Assembly, requesting the General Assembly to bring Christ Church into compliance (PC(USA) Minutes 2002:315-317). Just before the General Assembly meeting, Christ Church, on 2 June 2002, unanimously set aside its 1997 Resolution and 1998 Report (Christ Church 2003:1-2). Yet, Christ Church's website still posted the previous view of inclusiveness (Kincaid 2002:3). The Assembly Committee on Polity (ACP) debated the issue at length, and a minority report, supporting the overture, was defeated by commissioners and the majority report, not to take any action, was approved by a 77% vote (:1)

Rev. T Are from the ACP made an interesting observation that PJCs issue orders, but do not enforce compliance. When governing bodies stand in non-compliance, the church responds pastorally (Kincaid 2002:1).

Meanwhile, two lawyers from the Covenant Network, Mr. P Oddliefson [sic - Oddleifson] and Mr. D Nave were counselling sessions against making statements that they would defy the Constitution. Rather, they instructed sessions to claim they were reinterpreting the Constitution on their own terms and challenging the meaning of words in G-6.0106b such as chastity, repentance, sodomy, and self-acknowledged sin (The Layman Online 2002k:2). Thus, on 11 November 2002, Christ Church adopted a *Modified Statement of Compliance with G-6.0106b* (Christ Church 2003:1). Their study of commonly cited biblical passages and the Confessions led them to the conclusion that the Bible did not condemn homosexuality and homosexual relationships. They also did not believe that chastity meant gay and lesbian couples should refrain from sex, chastity did not mean celibacy, sodomy was not sodomy, and ordaining practicing gays and lesbians did not violate church law (:2-3).

The session stated their error was in leaving the interpretation of G-6.0106b to others, rather than exploring for themselves what it meant. Their study of the Londonderry ruling led them to believe inclusiveness and "the provisions of G-6.0106b are not mutually exclusive. We believe that when properly and faithfully interpreted, G-6.0106b and other constitutional requirements for inclusiveness can co-exist" (Christ Church 2003:2). They concluded that they were abiding by the Constitution, including the provisions of G-6.0106b, and welcomed practicing gays and lesbians into membership and leadership, including eligibility for ordination (:4).

The Pastoral Committee of the Presbytery of New England studied the document and found the document and Christ Church now complied with the Constitution and G-6.0106b. Additionally, they believed the interpretation of G-6.0106b was an activity that the Londonderry ruling not only permitted, but required (Presbyterian Outlook 2003:1). Christ Church's right to interpret the Constitution was subject to the authority of other bodies. The Committee found several sentences which did not clearly express that it was the session's view and subject to review. A representative of the Committee met with the session on 2 March 2003 and the document was modified (:2).

The Committee noted if others disagreed with how Christ Church applied G-6.0106b in a particular case, there were administrative and judicial means to challenge the action (Presbyterian Outlook 2003:2). This was a way of stating that Christ Church could not continue to state openly its defiance of the Constitution or attempt to ordain a sexually active gay or lesbian (Adams 2003g:4). The presbytery, on 8 March 2003, approved the report and sent it to the Stated Clerk of the General Assembly as the final report of the presbytery's compliance with the 2000 Londonderry ruling (:1).

5.32.1 Summary

The 2000 GAPJC, in the Londonderry ruling regarding Christ Church, acknowledged that no clear and palpable evidence existed that any improper ordination and/or installation had taken place. The opinion of the session gave a basis for concern that violations may have occurred; therefore, the presbytery had to inquire. The ruling

allowed Christ Church to disagree with G-6.0106b, but they were not allowed to not comply with it and violate the Constitution. Freedom of conscience was not limitless, but was bounded by the Constitution. The question remains how a minority dissents from the majority without violating the Constitution regarding an issue which they do not believe to be constitutional or biblical.

Christ Church's amended document stating that it would comply and were in compliance with the Constitution and G-6.0106b, but would ordain partnered gay and lesbian Christians, was merely one complaint or judicial action away from erupting again. The congregation's website still promotes that it welcomes all regardless of sexual orientation into membership and leadership.

The result of the Londonderry ruling was that dozens of sessions and several presbyteries decided not to take action against sessions and individuals who defied church law regarding G-6.0106b (Adams 2002j:3).

5.33 The 213th General Assembly of the PC(USA) in 2001

Since ordination issues would once again come up at the 2001 General Assembly, thirty-three Presbyterian seminary professors wrote an open letter to all commissioners, *The Whole Bible for the Whole Human Family*. It cautioned the church against an interpretation of the Bible which led to pronouncing judgment upon a specific behaviour of a whole category of people. They also reminded that the 1985 General Assembly observed, in *Guidelines for the Interpretation of Scripture in Times of Controversy*, that interpretation should be in accord with the rule of love (Blount *et al* 2001:1).

The General Assembly dealt with several overtures pertaining to ordination standards, specifically G-6.0106b, and would send out Amendment 01-A or Amendment A to delete G-6.0106b and add a new sentence to G-6.0106a. It would also establish a Theological Task Force (TTF) to deal with divisive issues, especially ordination standards.

5.33.1 Overtures Pertaining to G-6.0106b

The 2000 General Assembly referred overtures regarding ordination standards and G-6.0106b to the 2001 General Assembly, and a few were withdrawn. A whole new set of overtures were sent and the Assembly Committee on Ordination Standards (ACOS) dealt with Overtures 00-13, 00-40, 00-48, 01-3, 01-6, 01-12, 01-19, 01-22, 01-27, 01-28, 01-29, 01-32, and Request 00-3. This writer will not discuss each individual overture, but only Overture 01-08, which the ACOS, with a 31-25 vote (Luhr 2001:1), approved and sent to the General Assembly for its vote.

The Presbytery of New York City sent Overture 01-08, requesting that G-6.0106b be deleted, a new sentence be added at the end of G-6.0106a, and an Authoritative Interpretation be issued (PC(USA) Minutes 2001:401). The Presbyteries of Cayuga-Syracuse, Genesee Valley, Northern New York, Twin Cities Area, and Long Island all concurred with the overture and each sent additional rationale (:402-405). The ACC pointed out that the overture acted on both G-6.0106b and a new Authoritative Interpretation replacing all previous ones, but that the new Authoritative Interpretation would only have effect if the amendment to G-6.0106b occurred through the presbyteries (:405).

The Presbytery of Genesee Valley aptly stated that G-6.0106b "endeavors to replace the wisdom of sessions and presbyteries, established in G-6.0106a, with legalism. . . . [T]he paragraph violates the principle that justice lies not in rules but in the way that rules are informed by individual experience" (PC(USA) Minutes 2001:403).

The ACOS presented their majority and minority reports to the General Assembly. The minority report, as well as a substitute motion for the majority report, to merely revise G-6.0106b and add a sentence regarding final determination by the ordaining body, were defeated. The General Assembly, by a 317-208 vote (Rogers 2001:1), approved Overture 01-8 that G-6.0106b be stricken, and G-6.0106a be amended by adding a sentence (PC(USA) Minutes 2001:51):

> Their suitability to hold office is determined by the governing body where the examination for ordination or installation takes place, guided by scriptural and constitutional standards, under the authority and Lordship of Jesus Christ (:52).

If amended, the standard for ordination and/or installation would once again become a local standard exercised by the local governing body, and not a national standard set for the whole church through G-6.0106b. It would also remove sexual practice as a sin from the *Book of Order*, and reflect the constitutional questions asked at ordination and/or installation. However, the Confessions, which were mentioned in G-6.0106b and the ordination and/or installation questions for officers, were not mentioned in the amendment.

The General Assembly issued a new Authoritative Interpretation:

> Interpretive statements concerning ordained service by homosexual persons by the 190th General Assembly (1978) of The United Presbyterian Church in the United States of America and the 119th General Assembly (1979) of the Presbyterian Church in the United States, and all subsequent denominational affirmations thereof, shall be given no further force or effect; and Section G-6.0106a of the Form of Government, together with the other prerequisites for ordination expressly stated in our *Book of Order*, hereby are affirmed as the sole and exclusive standards for ordination by ordaining bodies acting in prayerful discernment of the leading of Almighty God, pending the approval of the related proposed amendment [original underline] (PC(USA) Minutes 2001:52)

Interestingly, this Authoritative Interpretation was the first to have a prerequisite clause attached to it. The new Authoritative Interpretation would only replace all previous ones if the amendment was approved by the presbyteries. The possibility of schism was a reality in the build-up to the votes by the presbyteries. The Confessing Church Movement, Presbyterians for Renewal, and the PLC through its The Presbyterian Layman and The Layman Online all worked hard to defeat the amendment (see Christian Century 2001:1).

The Presbyterian Layman labelled the 2001 General Assembly as “apostate.” This forced 130 commissioners to send an open letter to the denomination explaining their actions and the hurt caused by The Presbyterian Layman (Van Marter 2001i:1). Additionally, the Presbytery of Redwoods ordained Ms. K Morrison, a lesbian, in September 2001 (see Chapter 5.37). This, and the conservatives threatening to withhold per capita dues, forced the Stated Clerk, Kirkpatrick, to write to all the congregations to address the issues (Kirkpatrick 2002).

Conservatives were starting to speak about joining non-geographical synods with which they were in theological agreement (Scanlon 2001a:2). Byers, from the

Covenant Network, stated that the amendment would follow the principle of mutual forbearance on non-essential issues (:1).

Interestingly, Rev. J Andrews (Scanlon 2001a:4) from the Presbyterian Coalition, and Beuttler (2001) state that this was a polity solution to a theological problem, and Amendment B or G-6.0106b of 1997, which they supported, was not a polity solution (see Capetz 2001a for his criticism on Beuttler).

Amendment 01-A, or Amendment A as it was more commonly known, was overwhelmingly defeated by a 126 to 46 vote, with one presbytery taking no action (PC(USA) Minutes 2002:321). The popular vote, however, was much closer with four presbyteries coming down to a single vote (Smith 2001b:1). Thus, the "definitive guidance" of 1978 and 1979, affirmations thereof, and G-6.0106b were still in place.

5.33.2 The Interpretation of G-6.0106b

The Moderator of the Presbytery of Hudson River sent request 00-3 to the 2000 General Assembly, regarding whether a Nominating Committee could ask a range of nine questions about sin to candidates. The sins range from sexual sins to other sins in the Confessions, e.g. divorce; extra-marital and pre-marital sex; masturbation; taking God's name in vain; initiating lawsuits; lying; slandering; etc. (PC(USA) Minutes 2000:126-127). This writer sees this request as an attempt by progressive presbyteries to point out the ridiculousness of highlighting one sin in G-6.0106b, while the Confessions mention many other sins which do not require repentance to be ordained and/or installed.

The ACC responded that it was not appropriate for a Nominating Committee to ask any of the nine questions, since only the session and presbytery can examine candidates for ordained office. They could inquire into a candidate's practice after receiving information from any source which raised a question about the candidate's manner of life (PC(USA) Minutes 2000:125). Regarding G-6.0106b, the ACC stated that "[t]herefore, our application of this standard must of necessity be limited to

consideration of self-acknowledged or publically known practice" (:126). This is simply not what G-6.0106b says! The ACC, just like the GAPJC, has read meaning into the plain, palpable words of G-6.0106b, which state that the only criterion is self-acknowledged practice. Nowhere does it state that rumours, innuendos, gossip, etc. regarding someone's sexual practice are acceptable grounds for asking questions. In the end, it is an issue of one's conscience. If someone does have self-acknowledged practice, but does not confess it, then it is on that person's conscience.

The ACC did, however, clarify what "refusing to repent" and "practice" meant. They understood it to mean only current sexual practice, not any past acts. This statement is extremely relevant and one wonders how it would answer Question 3 of the Moderator's request: Must a nominating committee inquire about the intention of a homosexual candidate to remain celibate? (PC(USA) Minutes 2000:126). Can a session or presbytery ask questions about future sexual practice of unmarried, gay or lesbian candidates, or should they restrict their questions to current sexual practice? Should a celibate gay or lesbian candidate say anything about future sexual practice, since it is not relevant at the time of ordination and/or installation? Unfortunately, the ACC, General Assembly, GAPJC, and Stated Clerk have not answered this question.

The 2000 General Assembly referred Request 00-3 to the 2001 General Assembly (PC(USA) Minutes 2000:15). The ACC again responded that it was not appropriate for a Nominating Committee to ask these questions; only a session or presbytery could inquire (PC(USA) Minutes 2001:148). The 2001 General Assembly concurred (:51).

5.33.3 The Formation of a Theological Task Force

The 2001 General Assembly received Overtures 01-09, 01-14, 01-20, 01-36, 01-33, and 01-42 regarding a time of spiritual discernment regarding several issues, including ordination standards. The Presbytery of John Calvin sent Overture 01-33, requesting a theological commission be formed, and no action be taken on G-6.0106b and no judicial cases be filed until the report was due in 2005 (PC(USA) Minutes 2001:444-445).

The Office of the General Assembly (OGA) welcomed the overtures, specifically in light of 113 presbytery executives requesting a “third way” (cf. Executive Presbyters of the Presbyterian Church (U.S.A.) 2000). The OGA reminded the General Assembly that the 1925 General Assembly also faced division over the fundamentalist-modernist controversy, but sought a “more excellent way” through the appointing of the *Special Commission of 1925* (PC(USA) Minutes 2001:444).

The Assembly Committee on Peace, Purity, and Unity of the Church, in response to Overture 01-33, approved an alternate action and the General Assembly approved it. The Moderators of the 1999, 2000, and 2001 General Assemblies with the General Assembly Nominating Committee, would appoint a TTF to seek the peace, unity, and purity of the church. The TTF would consist of seventeen members and would study a wide variety of issues, including ordination standards. The final report was due to the 2005 General Assembly (PC(USA) Minutes 2001:29). The vote was 91% in favour of forming the TTF (Lancaster 2001:1) which shows the level of conflict which existed within the denomination, and the hope that the TTF would be able to bring solutions on how to resolve it.

5.33.4 Overture on Conversion Therapy

The Presbytery of San Joaquin sent Overture 01-41 requesting transformation resources be made available to those who struggled with sexual purity and wanted to change their sexual orientation (PC(USA) Minutes 2001:453). The GAC commented with the statement, *The Church, Sexual Healing and Transformation in Christ* (:454), which the General Assembly adopted (:26). The GAC reminded the General Assembly that the 1999 General Assembly had issued a statement on the issue (PC(USA Minutes 1999:80), and previous General Assemblies had noted there was no conclusive evidence clarifying the origin of sexual orientation, or that conversion therapy was effective in changing sexual orientation. Thus, the church should decline to approve a policy given the ambiguity (PC(USA) Minutes 2001:26).

5.33.5 Summary

For the second time since G-6.0106b was ratified by the presbyteries and became an ordination standard in the *Book of Order* in 1997, the General Assembly sent an amendment to the presbyteries to delete G-6.0106b and replace it with different wording. 1997's Amendment A failed by a 114-59 vote; 2001's Amendment A failed by an even bigger margin with a 126-46 vote, with one presbytery taking no action. The battle over ordination standards would be fiercely debated, enforced, but also challenged throughout the 2000s. The next occasion to delete G-6.0106b would only come with the 2008 General Assembly sending Amendment 08-B to the presbyteries (see Chapter 5.60.2). The next subchapters will show the huge quantity of judicial cases that PJCs dealt with on every ecclesiastical level.

After the defeat of Amendment A, the Covenant Network changed its strategy on G-6.0106b, and encouraged congregations not to state defiance of the Constitution, but to interpret the language of G-6.0106b and affirm they were in compliance with the Constitution when they ordained partnered gay and lesbian officers. The ordaining bodies should focus on the wording of G-6.0106b that self-acknowledgement was voluntary; the officers did not believe their lifestyle was sinful, and the officers lived lives of chastity (Adams 2002i, Scanlon 2002f).

The hope was that the formation of a TTF would bring some resolution to the ordination debate at the 2005 General Assembly. Their report was delayed till 2006, since the 2004 General Assembly voted to move to biennial meetings.

The ACC reply to Request 00-3 helped to clarify that only present, not past, sexual activity should be considered for candidates being examined by sessions and presbyteries, but it left many other questions unanswered regarding the process and application of G-6.0106b. The ACC did not address any future sexual activity, and one is left to wonder whether ordaining bodies could ask celibate gay and lesbian Christians about future partnered relationships. The 2001 ACC and General Assembly did not answer this.

5.34 The GAPJC Ruling in *Hair and McCallum v. Session of First Presbyterian Church of Stamford, CT*. Remedial Case 214-1 in 2001.

In 1997, the Session of First Presbyterian Church of Stamford, Connecticut (First) declared a scruple regarding G-6.0106b (PJC of the Presbytery of Southern New England 1999:1). The Nominating Committee placed Mr. W Osborne's name on the slate for elder. Osborne had previously been ordained and installed as elder in June 1994 (:2). From 1994, Osborne had reportedly been living with another man (Smith 1999b:2).

The Nominating Committee presented Osborne's name to the congregation on two occasions (PJC of the Presbytery of Southern New England 1999:2), and the congregation discussed his nomination on three occasions. In May 1998, the congregation voted to approve Osborne as elder, and the session met with the slate of candidates on 27 May (:3). All candidates were asked whether they had any unrepentant sin to acknowledge, and Osborne was part of the group who stated they did not. Later, Osborne was questioned again, since he had declared his homosexual orientation and it was known that he was living in a same-gender relationship. He acknowledged the relationship, but made no reference to sexual practice or self-acknowledged a homosexual practice (:5).

Osborne replied to the question, if it was a sexually active partnership, by declining to answer and refraining from self-acknowledging. No further questions were asked, including by the two complainants. The session voted and approved the entire slate, with two dissenting votes. Osborne was approved for installation as elder on 14 June 1998 (PJC of the Presbytery of Southern New England 1999:6). Mr. M Hair and Mr. J McCallum obtained a Stay of Enforcement of the Installation from the PJC of the Presbytery of Southern New England (PPJC) on 3 June and filed a complaint with three counts with the PPJC. A trial was held in February 1999 (:1).

The counsels for First pointed out that every session member who testified before the PPJC denied knowing that Osborne was involved in homosexual practice and denied he had acknowledged it to them or anybody they had talked to (Harter 1999:2,

Hurrell 1999:2). In a five-month period after the congregation was notified that Osborne was a candidate, nobody came forward with evidence of homosexual practice or acknowledgment thereof (Harter 1999:3-4). Osborne acknowledged he had a gay orientation, but did not acknowledge homosexual practice (Nosenzo 1999:3). The counsels for session, and the session itself in a letter to the congregation, reaffirmed repeatedly that the session did not intend to defy the Constitution (Harter 1999:1; Hurrell 1999:1; Nosenzo 1999:4; Session of Stamford 1999:2).

The first count that First session's examination was irregular was denied. Count two, to determine whether approval of an elder in a same-gender relationship was irregular, was not adjudicated, since it was a hypothetical question. Count three, to conduct an investigation, was not adjudicated, since it was beyond the PPJC's jurisdiction and scope (PJC of the Presbytery of Southern New England 1999:1).

The PPJC found Osborne had not made any public announcements about homosexual practice; had not self-affirmed or self-acknowledged any practice; had not refused to repent from any self-acknowledged practice; and was in a same-gender relationship. The PPJC also found First had not been defiant (PJC of the Presbytery of Southern New England 1999:4). It found that the 1978 definitive guidance urged governing bodies to conduct their examinations with candidates with discretion and sensitivity. The PPJC believed "self-acknowledged practice" required voluntary self-disclosure and Osborne had not acknowledged any unrepentant homosexual practice. To interpret Amendment B otherwise was to begin down a slippery slope which leads to inquisition. The co-pastor and two elders also testified that they had no knowledge regarding his sexual practice (:7).

The PPJC affirmed the examination of Osborne and the Stay of Enforcement of the Installation would stay in place for the 30-day appeal period from 6 March 1999 (PJC of the Presbytery of Southern New England 1999:9). The vote was 4-1 (Kincaid 1999:1).

Hair and McCallum appealed to the PJC of the Synod of the Northeast (SPJC) with the same three counts; a trial was held in October 1999 (PJC of the Synod of the

Northeast 1999:1). The SPJC did not sustain the specification of error that the PPJC erred in failing to rule that the session acted irregularly in approving Osborne for installation. They found, according to the Hardwick ruling of 1983, the lower court of jurisdiction, the presbytery, was in the best place to determine the issues of fact. The SPJC sustained error two in part that the PPJC erred in failing to rule that the session acted irregularly regarding disqualification under G-6.0108b. The specification of error that the examination was incomplete and inconclusive was sustained. The session had to inquire further regarding three statements Osborne made; namely, he was chaste in God's eyes; there were many sins in the Confessions that were outdated (:5); and his declining to answer whether he was in a sexually active relationship (:6).

The SPJC reversed the PPJC decision and remanded them to direct the session to complete the examination; the Stay of Enforcement would remain till the PPJC decided the case (PJC of the Synod of the Northeast 1999:6). The session re-examined Osborne in January 2000 and sent the report to the PPJC, which met twice to provide study time for new members who had joined since the original opinion. The PPJC, by a 5-1 vote in April 2000, again upheld the actions of the session. The Stay was lifted and the way cleared for Osborne's installation (PJC of the Presbytery of Southern New England 2000:2).

The PPJC found the session's re-examination was not irregular. Osborne responded that he declined to answer whether he was sexually active since the term "self-acknowledged practice" allowed him to choose how to answer it. The PPJC concurred with this view. The language of G-6.0106b requires voluntary, self-disclosure of a sinful practice. Osborne chose to exercise freedom of conscience within certain bounds and viewed his conscience as captive by the Word of God. The PPJC found the session discharged its duty under G-6.0108b (PJC of the Presbytery of Southern New England 1999:3). The PPJC found Osborne had disclosed his sexual orientation, but did not self-acknowledge a practice called sin. To rule otherwise would be to rewrite G-6.0106b by failing to give meaning to the two terms "self-acknowledged" and "practice." Thus, Amendment B did not prohibit Osborne's ordination (:4).

Hair and McCallum requested a review of the PPJC decision and five members of the PJC of the Synod of the Northeast (SPJC) signed it (Adams 2000a:1). Next, they filed Appeal 00-1 in May 2001 with the SPJC (PJC of the Synod of the Northeast 2000:3). The SPJC ruled on 17 November 2000 not to sustain the specification of error that the examination was irregular since Osborne was ineligible for service under G-6.0106b and G-6.0108b. The vote was 7-3. The SPJC did not sustain the specification of error that the examination of Osborne was still incomplete and inconclusive (:7-8). The SPJC found the session had carried out their order of October 1999 to re-examine Osborne and to comply with G-6.0108b. The vote was 6-4. Again, they found, according to the Hardwick ruling of 1983, the lower court of jurisdiction, the presbytery, was in the best place to determine the issues of fact (:8). Also, they relied on the 1981 Rankin ruling that they could not substitute their judgment for that of the lower judicatory which was best able to judge Osborne under G-6.01061-6 and G-6.0108b (:9). The decision of the PPJC was reaffirmed (:8).

Three members dissented regarding specification of error one. They claimed Osborne was ineligible under G-6.0108b since his conscience was held captive by the Word of God as interpreted by the standards of the church. The manifest witness of *The Book of Confessions* rejected as sinful someone who lived in an unrepentant homosexual relationship (PJC of the Synod of the Northeast 2000:11). As this writer has shown earlier, this statement is simply untrue. The Larger Catechism Question 139 mentions "sodomy." It is the only occurrence of any homosexual act in *The Book of Confessions.* However, the word does not specify if anal homosexual rape of a man or a woman, or consenting anal sex between two men or a man and a woman is meant. The Heidelberg Catechism Question and Answer 87 mentions "homosexual perversion." However, the phrase has been shown to be an intentional addition in the 1962 translation by Miller and Osterhaven and does not occur in the original German or Latin versions (see Chapter 5.24.6 for a full discussion).

The three dissenters also argued that Osborne was ineligible under G-6.0106b, since his definition of "chastity" did not apply, since the context of the provision was sexual purity; thus, he was not sexually celibate. They also viewed the self-acknowledgment of his homosexual relationship as self-acknowledgment of "something the Confessions call sin" (PJC of the Synod of the Northeast 2000:11).

Four members dissented regarding specification of error two. They claimed the examination of Osborne was incomplete and inconclusive. The LeTourneau ruling stated that sexual orientation and practice was relevant to a candidate's qualifications for ordination and must be investigated (PJC of the Synod of the Northeast 2000:12). They concluded the PPJC erred by allowing unresponsiveness to a direct question regarding a vital area of inquiry (:13).

Hair and McCallum appealed to the GAPJC in November 2000. However, time was running out for Osborne, since his elected three-year term of office would expire in May 2001. The GAPJC ruled on the case in December 2001, and found, since a new class of elders had been elected and installed, it dissolved the former positions and rendered the claims to those positions moot. Osborne ceased to be eligible for installation and active service; thus, the specifications of errors were no longer relevant (PC(USA) Minutes 2002:332). The case was dismissed (:333).

The GAPJC decision, however, left the issue unresolved as to what candidates for office should be asked in regard to their sexual activity. How deep is a governing body allowed to probe into a candidate's life? Both the attorneys for the complainant and respondent, who argued the case before the GAPJC, were disappointed with the ruling, since they had asked the GAPJC to speed up the process and hear the case before Osborne's term expired (Scanlon 2001c:1).

Interestingly, Rev. Moffett from First pointed out that since the GAPJC did not overturn the SPJC or PPJC ruling, the decision on record was that the session did not violate the Constitution (Scanlon 2001c:1-2). Moffett and others stated that First did not intend to violate the Constitution. However, on 7 January 2007, the congregation elected Osborne's partner, Mr. G Price, as a deacon. Hair and McCallum sent a letter of complaint to the session (McCallum & Hair 2002). This writer could not find any evidence that the complainants filed a charge with the presbytery or asked for a stay of the ordination.

5.34.1 Summary

The 2001 GAPJC could not make a ruling, in *Hair and McCallum v. Session of First Presbyterian Church of Stamford, CT,* since Osborne's three-year term as elder-elect ran out before the GAPJC could rule. This case highlights the frustration of the appeal process, which can take years to reach the GAPJC for a final decision. We are left with the PPJC and SPJC rulings that the session's examination was not irregular. However, this would only apply in the Presbytery of Southern New England and the Synod of the Northeast.

5.35 The GAPJC Ruling in *Wier v. Session of Second Presbyterian Church of Fort Lauderdale, FL*. Remedial Case 214-5 in 2002

The various PJC rulings mark this 2002 case as Wier II or Wier 2 to separate it from the 1998 Wier I or Wier 1 ruling. Mr. R L Wier filed a request with the Session of Second Presbyterian Church of Fort Lauderdale, Florida (Second) in February 1998 to correct an "irregularity/delinquency" regarding the ordination of a practicing homosexual (PC(USA) Minutes 2002:339), Mr. K Barber (Scanlon 2002d:2). In May 1998, Wier filed a complaint, and an amended complaint in June, with the PJC of the Presbytery of Tropical Florida (PPJC). The PPJC held a hearing in August 1999. A trial date was set for October, but was not held. Following correspondence between the parties and the PPJC, the Moderator of the PPJC dismissed the case. Wier appealed to the SPJC, asserting that the Moderator of the PPJC had no authority to dismiss the case (PC(USA) Minutes 2002:340).

The SPJC concluded that the Moderator and the Clerk of a PPJC had authority to dismiss a case on the basis of the preliminary questions of D-6.0307, subject to a challenge by the party in the case or by a member of the PPJC. The SPJC found that the Moderator of the PPJC erred in dismissing the complaint. However, the record of the case indicated that the PPJC should have dismissed the case at the beginning, on the ground that the complaint failed to state a claim upon which relief could be granted. Thus, the SPJC dismissed the complaint. Wier appealed the case to the GAPJC. The Executive Committee of the GAPJC concurred that the SPJC was

correct in holding that the case should have been dismissed for failure to state a claim upon which relief could be granted. A hearing on the Order of Dismissal was held in April 2002 (PC(USA) Minutes 2002:340) and the case was dismissed (:341).

Wier had seven specifications of error, but all were not sustained. The GAPJC ruling found that the complaint did not state a claim upon which relief could be granted. It was a remedial complaint, yet it sought to prosecute a disciplinary case, as was the case in Wier's first complaint in *Wier v. Session of Second Presbyterian Church of Fort Lauderdale, FL* in 1999. The second issue was pivotal. The GAPJC found the complaint did not allege the accused was a self-acknowledged, practicing homosexual, but was a practicing homosexual (PC(USA) Minutes 2002:340). Barber stated that he was gay, but not sexually active, and would remain so while serving on session. His neighbour, Wier, claimed he was sexually active (Scanlon 2002d:2, 6).

The GAPJC found where, as in this case, the specification of self-acknowledgment was absent in a complaint, it:

> . . . may have extreme consequences to a person's reputation, career, or friendships, a greater degree of specificity is required. A complaint making such an allegation must assert factual allegations of how, when, where, and under what circumstances the individual was self-acknowledging a practice which the confessions call a sin (PC(USA) Minutes 2002:340-341).

Even if the allegations of Barber being a "practicing homosexual" were true, the complaint failed to meet the specificity that G-6.0106b compelled; namely, it did not allege any such specific details. The plain language of the Constitution clearly stated disqualified persons must self-acknowledge the proscribed sin. The GAPJC added a vital distinction:

> Self-acknowledgment may come in many forms. In whatever form it may take, self-acknowledgment must be plain, palpable, and obvious, and details of this must be alleged in the complaint (PC(USA) Minutes 2002:341).

The GAPJC stated, in essence, mere rumours or gossip about a candidate's sexual activity was not sufficient grounds for a complaint. In this process, the ordaining and installing governing body was in the best position to make any such determination based on its knowledge of the life and character of the candidate. The session had asked all the candidates if they would comply with the Constitution, specifically, G-

6.0106b. Since the session had no reasonable cause to believe otherwise, the GAPJC found no additional inquiry was warranted (PC(USA) Minutes 2002:341).

The GAPJC warned "[t]o single out a category of persons above and beyond other persons as more likely to sin violates the doctrine of total depravity" (PC(USA) Minutes 2002:341). Since all of us are prone to sin, all persons, being sinners, were equally likely and prone to violate the standard set forth in G-6.0106b, which applied to both homosexual and heterosexual persons. The ordaining and installing governing body best knows the life and character of the candidate and makes the initial and further inquiry as to compliance with all the standards for ordination and installation (ibid).

What happens if the governing body has reasonable cause for inquiry based on its knowledge of the life and character of the candidate? The GAPJC stated it had the positive obligation to make due inquiry and uphold all the standards for ordination and installation. However, consideration for inquiry was to be made solely on an individual basis, as per the Authoritative Interpretation of G-6.0106 issued by the General Assembly in 1998 on amended Overture 97-24 (see PC(USA) Minutes 1998:68, 166). Therefore, the GAPJC advised, notwithstanding the requirement of individualised inquiry based on reasonable cause, if a governing body made a line of inquiry to a candidate without reasonable cause, all candidates currently before that governing body must undergo the same inquiry (PC(USA) Minutes 2002:341).

This writer strongly disagrees with the above statement. The GAPJC basically says to ignore the Authoritative Interpretation of 1998 and inquire from the candidates regarding G-6.0106b, whether there was reasonable cause or not, as long as the questions are asked of everyone.

In 2006, the Office of the Stated Clerk issued Advisory Opinion Note 18 giving guidance on when questions could be asked of candidates. It, however, misstated the Weir [sic - Wier] II ruling that "... departures may be subject of questioning only if they are self-acknowledged or the ordaining body has 'plain, palpable and obvious' evidence of such departures" (PC(USA) Constitutional Services 2006:3). The ruling

stated that the self-acknowledging by the candidate, not the knowledge of the ordaining body, must be plain, palpable, and obvious.

Berkley and others ([2006]:2) from the conservative Presbyterian Coalition, in their criticism of the Advisory Opinion, made the same mistake in stating "[i]f the examining body has knowledge that is 'plain, palpable, and obvious,' it has a positive obligation to pursue further inquiry, whether or not the candidate has self-acknowledged." Wier II simply does not state that. Both interpretations combined the rights of the examining body and self-acknowledgment of the candidate, altering the GAPJC ruling to fit their view.

Nor did the ruling state that such an inquiry had to do with ". . . a failure to adhere to the essentials of Reformed faith and polity" (Berkley *et al* [2006]:2). The conservative faction of the PC(USA) claimed G-6.0106b was an essential; yet, neither the Constitution, nor the General Assembly, nor the GAPJC specified G-6.0106b or any article as an essential. They wilfully misinterpreted Wier II.

Thus, a governing body could ask specific questions when there was self-acknowledgement, reasonable cause, or if it asked the questions of all the candidates. Advisory Opinion Note 18 (2006:3) left out the third scenario, asking all the candidates, which was vital in the Wier II ruling (cf. Koster 2006:2, Berkley *et al* 2006:2). The GAPJC ruling pointed out that the Authoritative Interpretation of 1998 prohibited profiling of a specific group of people regarding G-6.0106b and must be done on an individual basis.

5.35.1 Summary

The 2002 GAPJC, in the Wier II ruling, although it was not a major ruling, did give some clarity as to what was permissible to be asked of candidates for ordination and/or installation. The ruling, however, left much room for interpretation and raised many questions. If a candidate did not self-acknowledge in a "plain, palpable, and obvious" way and provide details, a complaint against a candidate must follow this standard, since it could seriously harm a person's reputation, career, or friendships.

The ruling left many questions unanswered. What was meant by the statement that the complaint must assert factual allegations of how, when, where and under what circumstances the person was self-acknowledging? Was it a statement about sexual orientation or about sexual practice? To whom must this be made to be factual? What constituted plain, palpable, and obvious self-acknowledgment? Did the person have to show, say or write anything which could be seen as self-acknowledgment? How did a session decide it had reasonable cause or did not have reasonable cause to ask specific questions? Should sessions play it safe and have a policy of "don't ask, don't tell," or should they have a standard practice to ask every candidate regarding their sexual practice?

Many, including Wier's attorney, Cubbins (Scanlon 2002d:3-4), and the Committee of Counsel for the Presbytery of San Francisco (PJC of the Synod of the Pacific 2008b) believed the Wier II ruling negated the LeTourneau ruling in 1993, where Ms. Larges, a lesbian, was denied advancing to candidate for ministry, despite having no evidence of sexual practice presented during her trials. The good thing about the Wier II ruling was that it made it more difficult to file complaints against persons based on rumour and hearsay, and not concrete evidence of sexual practice. The standard shifted from the GAPJC ruling in the LeTourneau case, which put sexual orientation and practice on equal footing, to the Wier II case which required self-acknowledgment regarding sexual practice in accordance with G-6.0106b.

The GAPJC gave some integrity back to the way G-6.0106b should be applied by sessions. Questions regarding sexual activity should be based on self-acknowledgement by the candidate regarding their sexual practice, not their sexual orientation. This writer disagrees with the GAPJC's interpretation that sessions could inquire from all the candidates, even without reasonable cause. The GAPJC provided an exception which the 1998 Authoritative Interpretation simply did not specify.

5.36 The 214th General Assembly of the PC(USA) in 2002

The Moderators of the 1999, 2000, and 2001 General Assemblies reported that they had formed the TTF consisting of 21, not 17, members to represent greater diversity.

They were scheduled to report to the 2005 General Assembly, which did not occur, since meetings became biennial in 2004.

5.36.1 Overtures on Amending the Majority Vote to Amend the *Book of Order*

Several presbyteries tried unsuccessfully to have the General Assembly change the Constitution to require either a two-thirds vote of the General Assembly to send amendments to the presbyteries (PC(USA) Minutes 2002:279), to allow changes to the *Book of Order* only every five years (:280), or to require a two-third majority vote to amend the *Book of Order* (:282). Each one of these overtures came from conservative presbyteries who wanted to safeguard G-6.0106b in the *Book of Order* and assure it could not be deleted, since a majority vote is 87 presbyteries, while a two-thirds vote is 116 presbyteries. Therefore, the Committee on the OGA and the GAC recommended to the 2002 General Assembly that meetings be held biennially after 2004 to give more time to deliberate changes in the *Book of Order*, rather than a super majority option (:283).

The ACC noted that the General Assemblies in 1989, 1993, 1998, and 2000 did not approve requests to change the majority voting system to change the *Book of Order* (PC(USA) Minutes 2002:285). The General Assembly disapproved all these overtures (:66).

5.36.2 Commissioners' Resolutions on Civil Rights for Gays and Lesbians

The Federal Marriage Amendment (FMA) was introduced to the United States Congress to amend the United States Constitution to specify that "[m]arriage in the United States shall consist only of the union of a man and a woman. . . ." (PC(USA) Minutes 2002:600). Commissioners' Resolution 02-6 asked that the General Assembly support the FMA (:599), but the General Assembly voted to disapprove it (:74).

Commissioners' Resolution 01-25 requested that the civil rights and non-discrimination of all people, regardless of sexual orientation, be recognised. It asked that the resolutions (Recommendations) of the 1978 General Assembly of the UPCUSA again be adopted (PC(USA) Minutes 2002:575, see UPCUSA Minutes 1978:265-266). The General Assembly approved an amended version of the Resolution, deleting Recommendation 6 of the1978 "definitive guidance" that committees not make specific inquiry into the sexual orientation and sexual practices of officers where the candidate has not taken the initiative to declare his or her sexual orientation (:74). This writer presumes that this change was predicated upon the Wier II ruling, issued two months earlier:

> If the governing body has reasonable cause for inquiry based on its knowledge of the life and the character of the candidate, it has the positive obligation to make due inquiry and uphold all the standards for ordination and installation (PC(USA) Minutes 2002:339).

5.36.3 Summary

The 2002 General Assembly did not approve support for the Federal Marriage Amendment and re-approved the amended Recommendations from 1978 which affirmed the civil rights and non-discrimination against gays and lesbians. The OGA issued a note in March 2004 affirming that the Resolution by the 1996 General Assembly approved ". . . supporting legislation in favor of giving civil rights to same-sex partners" (PC(USA) Office of the General Assembly 2004:1-2).

5.37 The GAPJC Ruling in *Presbytery of San Joaquin v. PJC of the Synod of the Pacific and the Synod of the Pacific.* Remedial Case 215-3 in 2002

On 21 September 2001, the Presbytery of the Redwoods (Redwoods) voted to ordain a lesbian candidate, Ms. K Morrison, as National Field Co-Organiser for More Light Presbyterians (MLP). MLP is an advocacy network for Gay, Lesbian, Bisexual, and Transgendered Presbyterians (Smith 2001e:2). Morrison disclosed her sexual orientation to the CPM, but nobody requested any more information from her. Morrison stated during questioning on the floor of presbytery that she would be compliant with G-6.0106b and be chaste (The Layman Online 2001a:1).

However, the Interim Stated Clerk, Ms. L Phelps, stated during the CPM meeting with Morrison in August that Redwoods' action would be an irregularity. She declared there would be a risk in such action given Morrison's background (The Layman Online 2001a:1). A question at the presbytery meeting requesting further clarification went unanswered (:2). The chair of the COM, Rev. C Stokes, replied to the question of Morrison's chastity on the floor of presbytery, that the matter had been resolved in the committee. Stokes stated:

> We don't ask our heterosexual candidates about their fidelity in marriage, or investigate their sexual behavior. I think to do so in this case would clearly have been discriminatory (Smith 2001e:4).

Mr. B Moss, the co-moderator of MLP, however, confirmed after the ordination that Morrison had been open about her relationship with another minister (Dart 2001b). In a newspaper interview, Morrison admitted she was not celibate, but was chaste, referring to the Heidelberg Catechism where chastity is applied to both married and single persons and does not refer to physical practice (The Layman Online 2001b:2).

The vote to approve Morrison for ordination was 90-37. Three protests were filed and three dissents noted (Smith 2001e:4). On 9 October 2001, seven members of the Presbytery of the Redwoods (Hart *et al*) filed a remedial case with the PJC of the Synod of the Pacific (SPJC) against Redwoods. The complaint asserted that the presbytery had committed an irregularity in violation of G-6.0106b, since the candidate's self-disclosure of her sexual orientation triggered a duty of further inquiry that was not fulfilled (PC(USA) Minutes 2003:278).

Hart *et al* also filed a petition for a stay of enforcement of the decision to ordain, and requested the SPJC to stay an enforcement of the presbytery's action approving the candidate for ordination. The complaint and petition alleged that the Interim Stated Clerk of Redwoods had advised the presbytery's COM that the proposed ordination would constitute an irregularity under the *Book of Order* (PC(USA) Minutes 2003:266).

On 17 October 2001, the SPJC met by telephone conference call without three of its members. The members of the SPJC participating in the conference call discussed the requested stay of enforcement, and whether probable grounds existed for finding that

the decision or action of the presbytery was erroneous. Two commissioners stated they would sign the stay. The Stated Clerk of the synod telephoned the three absent members of the SPJC, but none of them signed the stay. Thus, lacking the three signatures needed for a stay of enforcement, Redwoods' action was not stayed (PC(USA) Minutes 2003:266). Morrison was ordained on 21 October 2001 (:278).

In November 2001, the Presbytery of San Joaquin (San Joaquin), which had never been a party to the initial case against Redwoods, filed a remedial complaint with the GAPJC against the SPJC. It asserted that the SPJC had abused its discretion in refusing to issue the stay of enforcement requested in the Redwoods case. The SPJC denied that it had abused its discretion in not issuing the stay (PC(USA) Minutes 2003:266). The attorney for the complainants claimed the presbytery did not probe deeply enough and the examination needed to be completed. The attorney for Redwoods, Ms. L Reade, argued that there was no allegation of sinful practice in the complaints. Reade asked that the case be dismissed based on the Wier II ruling (Van Marter 2002b:1).

The SPJC moved to dismiss San Joaquin's complaint, reiterating that the complaint failed to state a claim upon which relief could be granted, and that San Joaquin lacked standing to file the complaint. San Joaquin filed an amended complaint adding the synod as a respondent. The synod objected to this amendment, but filed an answer urging the same grounds for dismissal put forward by the SPJC (PC(USA) Minutes 2003:266).

In July 2002, the GAPJC conducted a hearing on both the objection to the amendment and on the respondents' motion to dismiss (PC(USA) Minutes 2003:266). San Joaquin alleged misconduct by the synod's Stated Clerk, Rev. D I McInnes, in the way in which he processed the complaint in the Redwoods case when he polled absent SPJC members about the stay (Van Marter 2002c). San Joaquin also alleged misconduct by the SPJC in allegedly disregarding the Constitution in its ruling on the stay in the Redwoods case. The GAPJC ruled that San Joaquin's complaint against the synod failed to state a claim upon which relief could be granted, and San Joaquin lacked standing to seek the requested relief against the SPJC (PC(USA) Minutes 2003:266).

The GAPJC arguments in the above findings were as follows. First, San Joaquin had a right to file a remedial complaint against the synod, but San Joaquin moved to dismiss with prejudice the allegation in its complaint before the GAPJC that the conduct of the Stated Clerk was improper. San Joaquin elected not to pursue this allegation as a separate ground for relief (PC(USA) Minutes 2003:267). In other words, San Joaquin rescinded its complaint against the synod's Stated Clerk, but left it in its filings with the GAPJC (Van Marter 2002c). Therefore, the GAPJC dismissed the complaint against the synod for failure to state a claim upon which relief could be granted.

Second, the Rules of Discipline did not permit a person to seek remedial relief against a judicial commission based upon that commission's rulings in another case in which that person was not a party. Also, under D-8.0102, an appeal in a remedial case "may be initiated *only* by one or more of the original parties in the case" [original italics] (PC(USA) Minutes 2003:267). The San Joaquin complaint against the SPJC was therefore dismissed.

San Joaquin sought to challenge the rulings of the SPJC, not through the direct appeal process designed to correct errors in constitutional interpretation, but through a *collateral attack* on the SPJC's interim rulings in the Redwoods case, by filing a separate remedial complaint against that judicial body. The Rules of Discipline in the *Book of Order* did not confer standing upon a party not involved in a particular case to collaterally attack the rulings of a judicial commission in that case (PC(USA) Minutes 2003:267).

San Joaquin had a remedy in that it could have joined the original Redwoods complainants (Hart *et al*), but did not do so; it initiated its own remedial complaint later against the Presbytery of the Redwoods in 2003 (see Chapter 5.40). The complaints against the synod and SPJC were dismissed (PC(USA) Minutes 2003:267).

Five GAPJC members agreed with the majority, but believed the motion to dismiss should have been granted on other, more foundational grounds of jurisdiction. They believed the decision of a PJC member to endorse or to fail to endorse a petition for a

stay was entirely a matter of individual discretion. “In short, the matter alleged in the complaint is an empty shell; it is, in fact no matter at all. There is no action or decision, no constitutional omission or failure to act when individual members of a PJC do not endorse a petition for a stay, irrespective of the merits of the pleading” (PC(USA) Minutes 2003:268). Since three signatures were not obtained, San Joaquin did not have jurisdiction, and the complaint failed to state a claim upon which relief could be granted (ibid).

Mr. P R Jensen, an attorney who was closely linked to conservative Presbyterians, filed a complaint against Morrison and five persons who were either involved in Morrison’s approval or her ordination (Adams 2002k:2). The Investigating Committee of the Presbytery of the Redwoods dismissed the charges in December 2002 (:1). Jensen filed charges against Morrison’s father who was an elder and who participated in her ordination, but his session dismissed the charge (:2).

5.37.1 Summary

The 2002 GAPJC dismissed the conservative Presbytery of San Joaquin’s complaint for failure to state a claim upon which relief could be granted, and the complaint against the SPJC was dismissed for lack of standing. The second complaint involving Morrison would be heard by the GAPJC in March 2003 (see Chapter 5.40).

5.38 The PJC of the Synod of South Atlantic Ruling in *Blessing v. Session of First Presbyterian Church of Sebastian, FL*. Remedial Case 02-01 in 2002

The Session of the First Presbyterian Church of Sebastian, Florida (Sebastian) met on 22 May 2001 at a special meeting, with only five elders and the pastor in attendance. Mr. N F Blessing, an elder on session, was not able to attend the meeting, but asked the pastor, Rev. E B Lea, not to make any decision regarding the Confessing Church Movement (CCM). The session, however, unanimously voted to adopt a “confession” from the CCM and become part of it (PJC of the Synod of South Atlantic 2002a:2). The CCM was a conservative, ground-level movement which

enforced G-6.0106b in their election of deacons, elders, and pastors. Sessions voted to become part of the movement; thus, their congregation became part of the CCM. At the time of the Sebastian case, 1,200 congregations (of about 11,000) belonged to the CCM (Scanlon 2002b:1).

Sebastian adopted paragraph one with four statements or affirmations:

> 1. Jesus Christ alone is Lord of the Church and the way to salvation for all who will receive him.
> 2. Holy Scripture is the revealed Word of the triune God, and the church's only infallible rule of faith and life.
> 3. God's people are called to holiness in all areas of life. This includes honoring the sanctity of marriage between a man and a woman, the only relationship within which sexual activity is appropriate.
> 4. The leaders of Christ's Church are called to uphold these confessions and to be people who are chaste in singleness and faithful within the covenant of marriage (PJC of Central Florida Presbytery 2001:3).

The session, in paragraph two, then implored all Presbyterians who held these convictions to take three actions:

> 1. Renew their individual and corporate commitments to the above statements.
> 2. Urge their sessions and presbyteries to affirm these confessions and to declare that they will not ordain, install or employ in any ministry position any person who will not affirm them.
> 3. Urge the 2001 General Assembly to instruct the General Assembly Council to uphold these confessions and ensure that these confessions are followed faithfully in all programs and policies of the Presbyterian Church (USA) [sic] (PJC of Central Florida Presbytery 2001:4).

At a session meeting on 10 July 2001, Blessing moved to rescind the resolution, but it was defeated. Blessing argued that the "confession" violated his "freedom of conscience." He claimed he was instructed by session to agree with the confession's terms, passively submit to them, or leave the congregation. As a result, he filed a complaint in August 2001 with the PJC of Central Florida Presbytery (PPJC). He claimed his wife and other congregation members were told the same thing: to abide by the "confession" or leave (PJC of the Synod of South Atlantic 2002a:4). The session further advised the PPJC that Blessing and every other member of the congregation must "actively concur with or passively submit to [its] determination. . . or peaceably withdraw from our communion" (:4-5).

The PPJC heard the complaint in October 2001, and requested that Sebastian bring the first paragraph into conformity with the constitutional questions asked of officers, and delete the second item of paragraph two (PJC of the Synod of South Atlantic

2002b:2). On 11 December 2001, the session sent a document, *Amended Answer and Affirmative Defense* [sic - Defenses], to the PPJC with selected passages from Scripture and the Confessions supporting their view (PJC of the Synod of South Atlantic 2002a:5). On the same day, the pastor and eleven of the thirteen elders signed a letter, which was sent to the PJC, stating their unwillingness to recant their resolution and declining to make the changes (Adams 2002f:1).

The PPJC met again on 20 February 2002 to continue the trial (PJC of the Synod of South Atlantic 2002b:2). The attorney for the respondent, Mr. C J Wilson III, claimed the General Assembly had refused to define the essential tenets; therefore, churches in the CCM were saying what was important to them (Smith 2002a:3). Blessing argued that the language of the second statement, "Scripture is the . . . infallible rule of faith and life," contradicted the ordination vows in G-14.0207b (currently W-4.4003b) which speak of Scripture as "the unique and authoritative witness to Jesus Christ" (Scanlon 2002b:2).

The PPJC voted unanimously to sustain the complaint of Blessing. It did not issue a written decision, but sent a letter to the session ordering it to rescind the "confession" of 22 May 2001, which was in conflict with G-18.0201 and G-14.0207b (PJC of Central Florida Presbytery 2002). This meant Sebastian did not have the authority to amend confessional statements in G-18.0201 or to bind officers to theological standards apart from the ordination vows in G-14.0207 (currently W-4.4003). The PPJC instructed the session to publish this order in their newsletter, along with the statement that affirmation was only required of the nine questions set forth in G-14.0207; and enjoined the session from requiring any person to affirm the "confession" as a prerequisite for ordination and/or installation or employment in any ministry position (PJC of Central Florida Presbytery 2002).

On 25 February 2002, Sebastian appealed the PPJC decision to the PJC of the Synod of South Atlantic (SPJC). The SPJC, in its ruling on 13 September 2002, sustained two of the four specifications of error (PJC of the Synod of South Atlantic 2002b:3). They found the PPJC erred by ordering the session to rescind their "confession." The session had the right and power to pass the "confession," provided it was consistent with the Constitution. The SPJC did not view the "confession" as a "Confession" of

the church, neither did they affirm or endorse it. They affirmed the right of a session to adopt a statement of faith for use within a particular congregation, provided it was consistent with the Constitution (:4). Thus, Adams (2002f), from the conservative The Presbyterian Layman, misquoted the ruling in stating that the SPJC concluded "that the resolution was consistent with the denomination's constitution [sic - capitalised]."

The SPJC found the session could also ask more than the nine constitutional questions when examining candidates for office (PJC of the Synod of South Atlantic 2002b:4-5). However, the session could not use the "confession" as a litmus test for ordination or installation. In that sense, the PPJC ruling was correct (:5). The SPJC corrected and modified the PPJC decision that session had to rescind its "confession" (:5-6). The SPJC affirmed the PPJC ruling that session be enjoined from requiring any person to affirm the four-point "confession" as a prerequisite for ordination and/or installation as an officer or employment in any ministry. The SPJC vacated the PPJC ruling that their ruling should be published in the newsletter and the statement that affirmation was required only of the nine questions set forth in G-14.01207 (:6). The SPJC ruling was unanimous (:7).

Blessing's attorney, Mr. D C Wilson, stated that no appeal would be filed (Adams 2002f), but Blessing filed a notice of appeal with the GAPJC on 28 October 2002 (PC(USA) GAPJC 2002). This writer could not find any further information on the case, either in the General Assembly Minutes or on the Internet. It seems that Blessing did not pursue the appeal.

5.38.1 Summary

The PJC of the Synod of South Atlantic ruled that the PJC of the Presbytery of Central Florida erred by ordering the Sebastian Session to rescind its resolution or confession. However, the confession had to be consistent with the Constitution, and not be used as a litmus test for ordination and/ or installation.

In September 2006, Sebastian was one of four sessions which brought resolutions to the Presbytery of Central Florida. The Presbytery adopted a two-part resolution, the second part stating:

> Therefore, we will not recognize the validity of ordinations and installations anywhere within the Presbyterian Church (USA) [sic] if they violate *Book of Order* standards (The Layman Online 2006b:1).

This is one of the interesting aspects of the judicial system in the PC(USA). The 2002 PJC of Central Florida Presbytery instructed Sebastian to rescind their "confession." Yet, in 2006, the presbytery approved a resolution that closely resembled the intent of the 2002 "confession." The only way to repeal it would be for the presbytery at a later point to repeal it or file a complaint with the SPJC. This writer believes such a resolution by a presbytery creates an ecclesiastical dilemma with ministers and elder commissioners who vote against such resolutions, and sessions who will not enforce such resolutions. A presbytery-wide resolution does not leave room for anyone who objects, and creates a problem when new ministers entering the presbytery have to conform to the majority opinion of the presbytery. Individual conscience is lost when a presbytery dictates what one should affirm.

5.39 The GAPJC Ruling in *McKittrick v. Session of the West End Presbyterian Church of Albany, NY*. Remedial Case 215-5 in 2003

The Session of the West End Presbyterian Church in Albany, New York (West End) examined three candidates for elder on 29 April 2000. The examination was sustained and the elders installed the next day. One of the session members, Mr. D J McKittrick filed a complaint with the PJC of the Presbytery of Albany (PPJC) in May to have the installation of Mr. S Edwards set aside. McKittrick claimed Edwards admitted during his examination that he was a gay man in a fifteen-year relationship, and this information had previously been shared with the ministers and the Nominating Committee of West End (PC(USA) Minutes 2003:272). McKittrick tried to question Edwards on his sexual practice, but the session voted not to permit that question (Adams 2003f:1). Thus, he claimed the Moderator of the session failed to prevent the premature closure of the examination of the elders-elect (PC(USA) Minutes 2003:272).

In July 2000, McKittrick filed an amended complaint, asking the PPJC to determine that the examination of Edwards was irregular and to set aside the installation (PC(USA) Minutes 2003:272). The PPJC dealt with the question of whether they had the power in a remedial case to set aside the installation of an elder. The Moderator and Clerk in September 2000 held that they did not. They relied on the Weir I [sic – Wier] ruling of 1998 that an ordination may not be set aside in a remedial case (PJC of the Presbytery of Albany 2002:1). McKittrick agreed, but argued that a distinction should be made between ordination and installation, and the installation of Edwards should be set aside. The PPJC pointed out that the Hope and Weir I [sic - Wier I] rulings did not make a distinction between ordination and installation. McKittrick could not state any authority for such a distinction, and neither could they. The only difference was the laying on of hands on those not previously ordained (:2).

The Moderator and Clerk of the PPJC reserved judgment as to whether the complaint, as amended, stated a claim on which relief could be granted. In October 2000, the PPJC rejected the argument of a distinction between ordination and installation, and ruled that an installation could not be set aside in a remedial case. McKittrick appealed to the PJC of the Synod of the Northeast (SPJC) in February 2001. He argued that the PPJC failed to distinguish between the functions of office, which were perpetual, versus those which were temporal. The installation to serve as an active elder on session was not perpetual, and said installation could be set aside in a remedial action without impairing whatsoever the perpetual function of the office (PC(USA) Minutes 2003:273).

The SPJC ruled in October 2001, dismissing both specifications of error and affirming the decision of the PPJC. Two concurring commissioners questioned the fairness of the timing of the examination, with the installation on the next day, since it did not provide McKittrick an opportunity to request a stay of enforcement. McKittrick appealed the SPJC decision to the GAPJC in November 2001. He specified one specification of error; namely, the SPJC erred in ruling that his amended complaint “does not set forth facts upon which relief could be granted, and that the complaint must therefore be dismissed” (PC(USA) Minutes 2003:273).

The GAPJC ruled on 3 March 2003, and sustained the specification of error. McKittrick argued that his amended complaint had two separate claims for relief, and the GAPJC concurred. First, the process of examination was incomplete and should have been declared irregular. The GAPJC referred to their decision in Wier I that an order to admonish a session to refrain from future irregular ordinations was an appropriate action. Therefore, the PPJC should immediately conduct a trial, since the term of the elder would expire on 30 April 2003. Passage of time would not moot the first claim for relief that the installation was irregular (PC(USA) Minutes 2003:273).

Second, the installation of Edwards should be set aside in a remedial case (PC(USA) Minutes 2003:273). The GAPJC stated that the system was built on trust: trust that governing bodies would rightly ordain and install officers (:273-274). In this case, Edwards had been installed and a remedial case was not in order. However, for disciplinary charges to be filed, a mere allegation against the individual was not sufficient. Disciplinary action against the session might be an administrative review by the presbytery to remedy the situation of a person allegedly or wrongly installed. The consequence of the administrative review could be possible assumption of original jurisdiction of the session, or instruction that the session correct itself. Thus, the PPJC would have to decide, after a trial, whether there was an irregularity in the examination process, and if the installation of Edwards should be put aside. The PPJC had to discern whether the session committed an irregularity by installing someone who was not eligible, or a delinquency by failing to conduct a proper examination (:274).

The GAPJC addressed the issue of quick ordinations:

> We further note that when, as in this case, an installation occurs immediately following the examination process, there may be no practical opportunity for a protesting or dissenting party to seek a stay of enforcement of the decision to install . . . . Therefore, we encourage governing bodies to permit sufficient time between the examination and installation or ordination of a candidate so that there can be no intimation that any governing body intended to shield its action from scrutiny (PC(USA) Minutes 2003:274).

The GAPJC reversed the SPJC decision, and remanded the matter to the SPJC to direct the PPJC to conduct a trial and render a decision. Five members did not participate (PC(USA) Minutes 2003:274) and the vote was 13-0.

5.39.1 Summary

The 2003 GAPJC, in *McKittrick v. Session of the West End Presbyterian Church of Albany, NY*, ruled that Edwards should be re-examined with all due speed. However, the appellant appealed to the GAPJC on 13 November 2001, and the GAPJC only ruled on 3 March 2003, two months before Edwards' term would expire. This writer could find no further online articles regarding this case, and presumes that the time merely ran out before Edwards could be re-examined. The GAPJC criticised the practice of ordinations and installations occurring too fast after the session approved them, leaving no time for a stay of appeal to be filed with the PJC of the presbytery. The GAPJC clarified that the appellant should have filed a disciplinary complaint, not a remedial complaint, in the case of a wrongful installation.

5.40 The GAPJC Rulings in *Presbytery of San Joaquin v. Presbytery of the Redwoods,* and *Hart, et al. v. Presbytery of the Redwoods.* Remedial Case 215-8 in 2003

The Presbytery of the Redwoods (Redwoods) voted to ordain a self-acknowledged lesbian, Ms. K Morrison, as minister in September 2001 (see Chapter 5.37). Hart *et al* filed a remedial complaint with the PJC of the Synod of the Pacific (SPJC) requesting a declaration of irregularity and to have the ordination set aside. They filed a petition with the SPJC seeking a stay of enforcement of the decision to ordain, but were unsuccessful in that attempt. Morrison was ordained on 21 October 2001 (PC(USA) Minutes 2003:278).

On 19 November 2001, the Presbytery of San Joaquin (San Joaquin) filed a similar remedial complaint against Redwoods, except that they did not seek to set aside the ordination which had already occurred. San Joaquin also filed a separate remedial complaint against the SPJC with the GAPJC, requesting a determination that the SPJC had abused its discretion in refusing to grant the stay of enforcement sought by Hart *et al* (PC(USA) Minutes 2003:278, see Chapter 5.37).

In a pre-trial conference on 4 March 2002, the complaints of Hart *et al* and San Joaquin were consolidated for trial before the SPJC. On 23 April, Redwoods filed a motion to dismiss both cases in light of the decision rendered by the GAPJC on 14 April in *Wier v. Session of Second Presbyterian Church of Fort Lauderdale, FL* (Wier II). Despite Redwoods' notice that it would rely on the standards in Wier II, both appellants decided not to amend their complaints at any time prior to trial and the SPJC's ruling on Redwoods' motion (PC(USA) Minutes 2003:278).

On 17 May 2002, the parties gathered for trial. San Joaquin challenged the composition of the SPJC on three grounds, and the SPJC rejected all three challenges. (PC(USA) Minutes 2003:278). The SPJC heard arguments on Redwoods' motion to dismiss all cases in light of Wier II. The SPJC ruled that Wier II required the dismissal of the complaints for failure to state a claim, because nowhere did either complaint allege the candidate self-acknowledged a practice which the Confessions call sin (:279). At best, Morrison acknowledged she had a lesbian orientation, but she did not self-acknowledge any practice.

The GAPJC interpretation was based on the 2002 Wier II ruling that ". . . allegations must assert factual allegations of how, when, where, and under what circumstances the person was self-acknowledging a practice . . ." and ". . . self-acknowledgement must be plain, palpable, and obvious and details of this must be alleged in the complaint" (PC(USA) Minutes 2003:278, see PC(USA) Minutes 2002:340-341).

The conservative The Presbyterian Layman (Adams 2002c:1), however, was correct that despite Morrison being open about being in a lesbian relationship, the SPJC did not quote another part of the Weir [sic - Wier] ruling that "[i]f the governing body has reasonable cause for inquiry based on its knowledge of the life and character of the candidate, it has the positive obligation to make due inquiry and uphold all the standards for ordination and installation" (see PC(USA) Minutes 2002:341).

Both San Joaquin and Hart *et al* appealed the decision of the SPJC to the GAPJC (PC(USA) Minutes 2003:278). A trial was held in March 2003. Hart *et al* filed seven specifications of error; none were sustained. A few are noteworthy. First, the motion to dismiss by Redwoods was not timely filed. The GAPJC replied that the grounds

for the motion to dismiss did not arise until after the Wier II decision was rendered by the GAPJC; thus, it was timely (PC(USA) Minutes 2003:279). Second, the motion to dismiss was based upon the Wier II case, which was not a final decision, since it was under appeal. The GAPJC stated that its decisions were not subject to any appeal.

Fourth, the SPJC erroneously found the complaint did not state that Morrison was self-acknowledged in a practice called sin. This specification was withdrawn, with Hart *et al* admitting that "self confession as a practicing lesbian . . . was not actually alleged in the complaint" (PC(USA) Minutes 2003:279). Fifth, Hart *et al* were not allowed to amend their complaint to the Wier II standard. The GAPJC pointed out that Hart *et al* stated they chose not to amend their complaint, lest they admit "that their case was ill-founded." The GAPJC noted that if they had more evidence of Morrison's non-compliance to the constitutional standards for ordination, then they could have amended their complaint (ibid).

San Joaquin specified five errors, the first was sustained and the rest not sustained. The last two are noteworthy. Fourth, the SPJC erroneously cited the Wier II decision as a basis for dismissal. The GAPJC responded that San Joaquin had sufficient opportunity and notice to amend their complaint to the Wier II standard. Fifth, the SPJC erred in ruling that the complaint failed to allege a self-acknowledged practice which the Confessions call sin. San Joaquin alleged the self-acknowledged homosexual orientation of the candidate; by choice, they left out any allegation concerning self-acknowledged practice in their complaint. They reasoned that according to the Le Tourneau [sic - LeTourneau] decision of 1992, [sexual] orientation alone was sufficient ground for further questioning of a candidate (PC(USA) Minutes 2003:280). The LeTourneau ruling stated that if someone self-discloses they were gay or lesbian, the governing body had a responsibility to inquire further (PC(USA) Minutes 1993:163).

Despite being aware of the 2002 GAPJC ruling in the Wier II case, Jones, the attorney for the complainants, argued the 1992 LeTourneau standard. Reade, the attorney for the defendants, contended that the complainants used the wrong standard. The fidelity and chastity standard of 1997 had "altered, superseded, and

replaced" the 1978 "definitive guidance." Reade asked the GAPJC to make it clear in its ruling (Scanlon 2003a:4).

The GAPJC pointed out that Le Tourneau [sic] was determined prior to the adoption of G-6.0106b, which specified self-acknowledged practice as the new standard. They found orientation alone was insufficient to make a person ineligible for ordination or installation. The GAPJC stated that they cured the theological defect of the Le Tourneau [sic] decision through the application of the doctrine of total depravity in Wier II. The defect was the assumption that one category of persons was more prone to sin than other categories of persons (PC(USA) Minutes 2003:280).

The GAPJC concluded:

> Thus, sexual orientation alone would be no more sufficient or reasonable grounds for further questioning than would singleness, obesity or any other categorization. In other words, stereotypical profiling is not a reasonable or valid ground for singling out a candidate for additional questioning. Therefore, if a person does not self-acknowledge a practice that the confessions [sic - capitalised] call sin, then a governing body has a positive obligation to make further inquiry only if it has direct and specific knowledge that said person is in violation of the ordination and installation standards of the Constitution. In order to faithfully hold the central tenet of total depravity, there must be a higher pleading specificity as to what constitutes the grounds for reasonable cause prior to inquiry. A hunch, gossip or stereotype is not a sufficient ground to compel a governing body to make further inquiry. Reasonable grounds must include factual allegations of how, when, where, and under what circumstances the individual was self-acknowledging a practice which the confessions [sic - capitalised] call a sin (PC(USA) Minutes 2003:280).

The 2003 GAPJC again affirmed the 2002 GAPJC ruling in the Wier II case and put the focus on the essence of G-6.0106b; namely, self-acknowledgement of sexual practice had become the standard. The 1992 LeTourneau standard of self-disclosure of orientation was no longer sufficient ground for further questioning. On 3 March 2003, the decision of the SPJC was affirmed. Five GAPJC members did not participate in the hearing (PC(USA) Minutes 2003:280-281) and the ruling was 13-0.

5.40.1 Summary

The 2003 GAPJC ruled that both set of appellants, the Presbytery of San Joaquin and Hart *et al*, used criteria from the 1992 LeTourneau case, prior to the inclusion of G-6.0106b in 1997. They should have amended their complaints to use the 2002 Wier II

standard, which had replaced the LeTourneau standard. The GAPJC interpreted that G-6.0106b specified self-acknowledgment of a practice that the Confessions call sin; without it, one could not inquire. A governing body could only inquire if it had direct and specific knowledge that the candidate was in violation of the ordination and installation standards. Factual allegations of practices, instead of hunches or gossip, would be the only acceptable measure.

Scanlon (2003a:2) points out that the GAPJC was not asked to make a determination whether "chastity" and "celibacy" were the same or not. Morrison, after her ordination, was more outspoken that she was chaste despite being in a lesbian relationship.

5.41 The Investigating Committee of the Presbytery of Cincinnati in *Jensen v. Porter*. Disciplinary Complaint in 2003

On 13 March 2002, Mr. P R Jensen filed complaints against the emeritus and current ministers of Mt. Auburn Presbyterian Church in Cincinnati, Rev. H Porter and Rev. A S Van Kuiken (see Chapter 5.43), for performing same-gender marriage ceremonies (Jensen 2002a,b). The Presbytery of Cincinnati (Presbytery) formed an Investigating Committee to investigate the three charges alleged by Jensen. Porter agreed that he had committed two of the offenses and accepted the Investigating Committee's Alternative Resolution; the complaint was dismissed. First, he agreed to abide by G-14.0405b(5) (currently W-4.4003e), to be governed by the church's polity, and not to perform ceremonies in violation of the Constitution (Porter 2003:1). Second, he agreed not to call same-gender ceremonies marriages, and would instruct couples that the denomination did not recognise the covenant between them as marriages.

Rather, Porter stated he had come to a new understanding of marriage:

> Any declaration of marriage by the minister is not relevant. . . (Porter 2003:2).
> It is the couples themselves, in their exchanged promises, who create and declare the marriage (ibid).

Therefore, Porter disagreed with G-4.9000 which implied that the declaration of the minister joined two people in marriage. Porter believed that it was not the minister's

declaration or the witnesses' presence which made a same-gender or heterosexual marriage legal; they only witnessed what the couples themselves affirmed (:3). The couples themselves were the performative agents; they made the promises (Porter 2007:1).

5.42 The 215th General Assembly of the PC(USA) in 2003

Due to the TTF putting its report together for the 2006 General Assembly, there were only two overtures on G-6.0106b.

5.42.1 Overtures on G-6.0106b

The Presbytery of Des Moines sent Overture 03-07, requesting G-6.0106b be deleted, G-6.0106a be amended, and an Authoritative Interpretation be issued (PC(USA) Minutes 2003:322). The ACC commented that this two-stage approach would be the correct procedure, but the Authoritative Interpretation would have no effect if the deleting of G-6.0106b was not approved by the General Assembly and ratified by the presbyteries. Another option would be to delete G-6.0106b and leave it to later Assemblies to issue Authoritative Interpretations on the remaining portions of the Constitution (:324).

The ACCOM presented its report, recommending G-6.0106b be deleted, but a substitute motion was approved to become the main motion (:61). Thus, the General Assembly voted not to accept the overture, but only to comment that issues raised in the overture were already before the TTF and the church should pray for the TTF for discernment (:64). Therefore, the General Assembly, by a 431-92 vote (Odom 2003:1), decided not to send another amendment to G-6.0106b to the presbyteries, but to wait for the TTF report in 2006. However, the judicial cases heard by various PJCs would continue in the absence of a moratorium on not laying charges, in regard to G-6.0106b, while the TTF was completing its report.

The Presbytery of Donegal sent Overture 03-12, requesting the General Assembly to provide an Authoritative Interpretation on G-6.0106b, especially regarding "chastity," "repent," and "self-acknowledgement," which they felt were not clearly explained in Polity Note #19 (PC(USA) Minutes 2003:324-325). The ACC argued that no Authoritative Interpretation was required, since the current constitutional documents and related judgments were not silent on the issue (:325). The General Assembly followed the ACC's advice and approved the ACC's statement. "Self-acknowledgment" did not appear in *The Book of Confessions*, but was found in the 2002 Weir [sic - Wier] decision and the 2003 Presbytery of the Redwoods decision (:64, 325).

"Repentance" was found in the Second Helvetic Confession 5.093-.094, and "chastity" was found in the Heidelberg Catechism 4.108-.109 and Westminster [sic - The Westminster Confession of Faith] 6.081-.086 [sic - repentance, not chastity] and Westminster [sic - The Larger Catechism] 7.247-.249 (PC(USA) Minutes 2003:64, 325). Yet, neither the ACC nor the General Assembly quoted the relevant texts or explained them. The Heidelberg Catechism Answer 108 states:

> That all unchastity is condemned by God, and that we should therefore detest it from the heart, and live chaste and disciplined lives, whether in holy wedlock or in single life.

The Heidelberg Catechism Answer 109 states, in part:

> Therefore he [God] forbids all unchaste actions, gestures, words, thoughts, desires and whatever may excite another person to them.

In neither answers is there explicit references that "chastity" or "unchaste" refer to sexual activity or sexual activity outside of marriage. Rather, the meaning is quite clear that both married and unmarried persons should live chaste lives (Answer 108) and unchaste things are actions, words, thoughts and desires (Answer 109), not sexual deeds or activity.

Similarly, The Larger Catechism, when dealing with the seventh commandment - adultery - states:

> . . . chastity in body, mind, affections, words, and behavior, and the preservation of it in ourselves and others . . . keeping of chaste company. . ." (Answer 138 *The Book of Confessions* 7.248).
> . . . unchaste company. . . (Answer 139 *The Book of Confessions* 7.249).

Again, in neither answer was “chastity” or “unchaste” defined as not having sex or sexual activity outside of marriage, nor was “chastity” defined as being celibate or refraining from sex, but refraining from things which affect the body, mind, affections, words, and behaviour (Answer 138) and unchaste company (Answer 139). Nor do the footnotes with Scriptural references in Answers 138-139 refer to sexual activity at all (*The Book of Confessions* 2004:238).

The General Assembly concluded:

> A search of the electronic version of *The Book of Confessions* easily reveals a vast number of relevant reflections on these terms from our tradition. Specific application of these standards to explicit conduct is best accomplished through the particular fact-finding available through the judicial process (PC(USA) Minutes 2003:64).

The above, coupled with the General Assembly refusing to issue an Authoritative Interpretation on the meaning of “chastity,” meant that the interpretation of “chastity” required “particular fact-finding.” The 2006 and 2008 Authoritative Interpretations of G-6.0108 would make it clear that sessions and presbyteries must determine what “chastity” means and must apply that standard in light of the life and witness of each candidate (see Chapters 5.49.1 and 5.60.1).

This writer believes the ACC and the 2003 General Assembly wasted an opportunity to clarify what these words or phrases meant, even in the absence of issuing an Authoritative Interpretation. Rather, they reinterpreted the meaning of “chastity” in the Confessions in the light of the modern-day meaning of the word: abstinence or refraining from pre-marital sex. The definition found in Webster’s and modern-day vernacular cannot be transposed back into documents which clearly show that “chastity” and “unchaste” applies to both married and single persons, and apply to all aspects of their lives, not just sexual activity. In the absence of a theological definition and discourse, based on the Confessions and Scripture, of what “chastity” means, the PC(USA) continues to resort to polity-based decisions and statements. “Chastity” in the Confessions is equated with modern-day “celibacy.” Thus, the meaning of chastity is misused in G-6.0106b, since overtures with “celibacy” repeatedly failed.

The 2003 General Assembly failed to clarify what the 1996 General Assembly meant when it approved G-6.0106b, and used “chastity” to mean “celibacy” or “refrain from

sexual intercourse outside of marriage." The inability of General Assemblies to honestly struggle with the Scriptures and the Confessions led to disingenuous polity in the form of G-6.0106b: we state one thing, but actually mean something else. No wonder that ordaining and/or installing bodies are caught up in the semantics of exactly what words mean and how to apply them, such as "chastity," "repentance," and "self-acknowledge."

5.43 The GAPJC Ruling in *Presbyterian Church (U.S.A) by the Presbytery of Cincinnati v. Van Kuiken.* Disciplinary Case 216-16 in 2004

Rev. A S Van Kuiken served as minister of the Mount Auburn Presbyterian Church in Cincinnati, Ohio (Mt. Auburn). The session approved a *Policy on the Inclusion of Gays and Lesbians* in 1991, which it reaffirmed yearly and expanded, after 1997, to include a *Dissent to Amendment B* (Van Kuiken 2000), a *Statement of Principles* in 2003, and a *Statement on Covenant Services (Holy Unions, Marriages, etc.)* in 2004. Mt. Auburn stated it would ordain gays and lesbians (1991), objected to the second-class status of gays and lesbians (2003), and would allow their ministers to perform same-gender marriages (2004) (Mount Auburn Presbyterian Church 2004:1-3). The session committed to not ask candidates for ordination onerous questions implied by G-6.0106b. Yet, the session was open to any voluntary statements from candidates (Van Kuiken 2002:2). The Session of Madeira-Silverwood Presbyterian Church (2002:1-2) sent an overture to the Presbytery of Cincinnati (Presbytery) to take action against Mt. Auburn and its ministers (see also Presbyweb 2002:1).

Consequently, Jensen filed disciplinary complaints against the emeritus minister, Rev. H Porter (see Chapter 5.41) and Van Kuiken for performing same-gender marriages (Jensen 2002a,b). Jensen had unsuccessfully filed more than twenty charges [sic - complaints] against candidates and ministers to bar or remove then from ministry (Kibler 2003c:1). An Investigating Committee of the presbytery concluded that two charges should be filed against Van Kuiken (Presbytery of Cincinnati 2002a:1). The PJC of the Presbytery of Cincinnati (PPJC) held a trial in April 2003. The first charge alleged that Van Kuiken had performed and/or condoned

same-gender marriages at Mt. Auburn (PJC of the Presbytery of Cincinnati 2003:1), although they could not legally be performed in Ohio.

Van Kuiken admitted to the charge, but not that he had committed an offense (Van Kuiken 2003:2). He challenged the PPJC to answer whether the *Book of Order* and the 2000 Benton ruling categorically prohibit same-gender marriages (:3). The PPJC found Van Kuiken guilty by a 7-0 vote of violating the Scriptures and the Constitution (W-4.9001) (PJC of the Presbytery of Cincinnati 2003:1). However, no evidence was provided of how he violated the Scriptures. The PPJC censured him with a rebuke, the mildest form of censure, and he was directed not to confuse same-gender unions with marriages (:2). One dissenting majority member wanted the censure to be temporary exclusion from ministry, since Van Kuiken had vowed to continue to perform same-gender marriages and stated he could not be rehabilitated from his position (:4).

The second charge alleged Van Kuiken had participated in the ordination and installation of elders and deacons who refused to repent from self-acknowledged practice as required in G-6.0106b (PJC of the Presbytery of Cincinnati 2003:2). Van Kuiken admitted to the charge, but not that he had committed an offense. He challenged the PPJC to answer whether G-6.0106b categorically prohibited the ordination of self-declared, sexually active, non-repentant gays and lesbians or participation in such ordinations (Van Kuiken 2003:2-3). He was found not guilty by a 6-1 vote (PJC of the Presbytery of Cincinnati 2003:2).

The PPJC found the responsibility of ordination and installation lay with the session, not the minister, who only officiates at the service, asks the constitutional questions, and pronounces their ordination and installation. “Thus, if Rev. Van Kuiken had not officiated, it would have been an offense against the Constitution” (PJC of the Presbytery of Cincinnati 2003:3). His participation did not meet the criteria of G-6.0106b and was not an offense (ibid). The dissenting member argued that Van Kuiken did not dissent from the session and endorsed Mt. Auburn’s Statement of Dissent and Non-Compliance with G-6.0106b (:6).

Van Kuiken filed an appeal with the PJC of the Synod of the Covenant (SPJC) on the PPJC ruling (PJC of the Synod of the Covenant 2004a:2). Three members of the COM of the presbytery met with Van Kuiken, and he stated that he would continue to perform same-gender marriages. Notes, written a month later, warned him that he would presume to have renounced jurisdiction of the church if he continued. Van Kuiken contended that no such warning was given (:2-3).

Van Kuiken next informed the presbytery that he had performed a same-gender marriage on 17 May 2003. The COM recommended that the presbytery, at its next meeting, approve that Van Kuiken had persisted in a work disapproved by the governing body having jurisdiction and the presbytery presume that he had renounced jurisdiction. Van Kuiken asked to meet the COM, but was denied. On 16 June, the presbytery voted 119-45 that Van Kuiken had renounced jurisdiction and removed his name from the rolls of the presbytery (PJC of the Synod of the Covenant 2004a:3). Thus, he was stripped of his ordination and removed from the denomination through an administrative approach (Peterson 2004:1).

Van Kuiken, in his defence arguments, had stated that he would not accept any degree of censure, for it would imply acceptance of a guilty verdict. Also, he expected more charges to be filed, since he would continue to ordain non-repentant, practicing gays and lesbians and perform same-gender marriages (Van Kuiken 2003:4). He filed a remedial complaint with the SPJC, and a stay was granted, restoring him to the rolls of the presbytery as a member-at-large. Van Kuiken then dissolved his pastoral relationship with Mt. Auburn, and started a non-denominational congregation. After the trial, the SPJC sustained Van Kuiken's four specifications of error by a 9-0 vote. First, the presbytery's action violated the stay in his pending appeal with the SPJC. The presbytery could not use the PPJC ruling for further action against Van Kuiken. The SPJC clarified that he did not renounce jurisdiction, but, in fact, acknowledged jurisdiction by filing an appeal with the SPJC (PJC of the Synod of the Covenant 2004a:4).

Second, the presbytery erred in claiming Van Kuiken had renounced jurisdiction, because they did not decide earlier his conduct was a disapproved work according to G-6.0502 (PJC of the Synod of the Covenant 2004a:4). Van Kuiken had filed a

timely appeal and a stay was issued, affirming jurisdiction (:5). Third, the presbytery erred, since no proper notice and consultation had been given. Several persons witnessed that no notice was given (:6). The SPJC criticised the COM for not meeting with Van Kuiken prior to the special presbytery meeting (:6-7).

Fourth, the presbytery erred because Van Kuiken's conduct was not "a work" as the term is used in G-6.0502. The SPJC found the term "work" did not refer to a particular act of ministry, such as performing same-gender marriages. Also, the term "work disapproved" had not been authoritatively interpreted by the General Assembly or the GAPJC (:7). This meant other ministers within the synod would not be stripped of their ordination through an administrative process if they, too, performed same-gender marriages (Peterson 2004:2).

The SPJC ordered the Presbytery's declaration that Van Kuiken had renounced jurisdiction be vacated and his name be restored to the rolls of the presbytery (PJC of the Synod of the Covenant 2004a:8).

The SPJC, in April 2004, held a trial over Van Kuiken's first appeal against the PPJC ruling of April 2003 in Disciplinary Case 2003-1 (PJC of the Synod of the Covenant 2004b:83). Van Kuiken specified three specifications of error in the PPJC ruling. First, the PPJC erred by interpreting W-4.9001 to prohibit same-gender marriages, and erred in its constitutional interpretation. The specification was surprisingly sustained by a 6-4 vote. The SPJC ruled that although Van Kuiken was charged and admitted to performing same-gender marriages, the record did not support a finding of guilt by proof beyond a reasonable doubt (D-11.0403) (:84).

The majority of the SPJC pointed out that although W-4.9001 did not mention same-gender marriages, it had been authoritatively interpreted by the 1991 General Assembly, and by the 2000 GAPJC in the Benton ruling (PJC of the Synod of the Covenant 2004b:84-85). The Benton decision made a very narrow distinction between same-gender unions and marriages, and:

> While stating that same-sex marriages are impermissible, it avoids outright prohibition by using the words "should" and "should not" in guidance for sessions and ministers which the Preface to the Book of Order [sic –italicised] defines as "highly recommended." Likewise, the 1991 authoritative

> interpretation upon which the Benton decision is based uses the words "would not be proper."
> Thus, both interpretations fail to define the performance of a same-sex marriage by a minister as an offense subject to a disciplinary trial. To interpret the 1991 authoritative interpretation and Benton otherwise requires a new authoritative interpretation or constitutional amendment (PJC of the Synod of the Covenant 2004b:85).

The SPJC, at this point in time, was absolutely correct that same-gender marriages were impermissible, and judicially prosecuting someone was questionable. No outright prohibition existed against a minister performing a same-gender marriage, since the language was both ambiguous and not prohibitive, e.g. "shall" or "shall not" was not used. The dissenting minority argued that W-4.9001 was clear and unambiguous and the plain meaning was that Christian marriage was between a man and a woman. It stated:

> It is not the role of an appellate court such as this PJC to "fill in the blanks" in the Book of Order [sic - italicised]. One does not properly go to the Book of Order [sic - italicised] looking for what it does not say and then assume that silence is permission to what one wants. If the church wishes for PJCs to decide cases with the understanding that same-sex marriages are a regularized part of Presbyterian marriage practice, the church should provide clear, positive Book of Order [sic - italicised] language that says so (PJC of the Synod of the Covenant 2004b:88-89).

This is exactly the point Van Kuiken, the majority of the SPJC, and this writer are trying to make. Same-gender marriages were impermissible, but there was no clear negative prohibition; there were too many gaps in the Constitution and Authoritative Interpretations. W-4.9001 did not mention same-gender unions, blessings, or marriages. Neither did a clear prohibition by the General Assembly or the GAPJC exist. The language of the Benton ruling used "should" and "should not," meaning highly recommended, and not "shall" and "shall not," meaning prohibited. The language left the issue of same-gender marriages open to varied interpretations. And as long as ambiguity existed, PJCs would deal with ministers who believed that performing same-gender marriages were not prohibited, but it was only recommended they not be performed.

Adams (2004g:1), from the conservative The Presbyterian Layman, shows his bias in claiming the Preface [of the *Book of Order*] was not part of the Constitution; thus, he disagreed with the SPJC ruling. His interpretation was both incorrect and inconsistent. The Presbyterian Layman, Adams and others frequently referred to the

Preface and reminded us of how the “shall” and “is to be/are to be,” “should,” “is appropriate,” and “may” were to be understood in the *Book of Order*. They were the ones who not only struggled many years to have G-6.0106b inserted, but that “shall not be ordained” be included (mandate), rather than “should not be ordained” (strongly recommended) in G-6.0106b.

Second, the PPJC erred in denying Van Kuiken the right to follow his conscience by performing same-gender marriages. The specification was not sustained by a 6-4 vote. The majority believed that Van Kuiken’s conscience was bound by G-6.0108, and the presbytery decided whether an officer held views which were outside the parameters as that particular governing body saw it (PJC of the Synod of the Covenant 2004b:85-86). The dissenters argued that adherence was required of the essentials of the Reformed faith and polity, and a determination was made by the governing body in which he served, i.e. Mt. Auburn in 2001 adopted a policy of allowing same-gender marriages (:90).

The Presbytery of Cincinnati did not determine that this policy was a departure from the essentials, and neither the session nor Van Kuiken had been advised their actions were a serious departure from these standards under G-6.0108a. The SPJC suggested that the PPJC should have determined whether W-4.9001 rose to the level of an essential of Reformed faith and polity (:91). The minority was correct that neither W-4.9001, nor any other part of the *Book of Order*, had been identified as an essential. This would only occur in 2008 in the Bush ruling, when G-6.0106b would be earmarked as an essential by the GAPJC (see Chapter 5.56).

Peterson (2004:2) points out that through declaring a scruple, an entire presbytery could become welcoming and, technically, not be in defiance of the Constitution, while sessions could be welcoming within presbyteries that were not welcoming, and not be in defiance.

The SPJC reversed the decision by the PPJC and removed the rebuke of Van Kuiken (PJC of the Synod of the Covenant 2004b:86). The presbytery appealed the SPJC ruling to the GAPJC. However, Van Kuiken renounced jurisdiction and resigned as a Presbyterian minister. The GAPJC dismissed the appeal in May 2004 (PC(USA)

Minutes 2004:378). It was unfortunate that the GAPJC was not able to rule on the SPJC decision that Van Kuiken was not guilty on the charge of performing same-gender marriages. The next opportunity the GAPJC had to rule on the issue of same-gender marriages was only in April 2008 in the Spahr decision (see Chapter 5.59). Spahr was found not guilty of performing same-gender marriages, since a Presbyterian minister could not be found guilty of something which could not be performed in the first place.

5.43.1 Summary

The 2004 PJC of the Synod of the Covenant, in the Van Kuiken ruling, found the Constitution and the 2000 GAPJC in the Benton ruling did not outright prohibit Presbyterian ministers from performing same-gender marriages. The Benton ruling used "would not be proper" and the words "should" and "should not" were "highly recommended." The Authoritative Interpretations by the 1992 General Assembly and the 2000 GAPJC in the Benton ruling stated it was "impermissible," but did not state that it was punishable with disciplinary action. In the majority of the SPJC's view, the PJC of the Presbytery of Cincinnati erred in applying W-4.9001 to prohibit same-gender marriages. However, the SPJC did not approve of Van Kuiken's contention that he was allowed to perform same-gender marriages based on freedom of conscience.
In the absence of a ruling by the GAPJC, the ruling of the lower court, the PJC of the Synod of the Covenant, applied to all presbyteries within the synod, until replaced by a newer decision by the GAPJC.

5.44 The 216th General Assembly of the PC(USA) in 2004

Despite several overtures dealing with ordination standards, G-6.0106b, same-gender marriage, and defining the essentials, the General Assembly took no action, and did not send amendments on these issues to the presbyteries. It seemed the commissioners were delaying all decisions till the 2006 General Assembly when the

2005 *Peace, Unity, and Purity* Report by the TTF was to be discussed (see Chapter 5.49.1).

5.44.1 Overtures on Essentials

Overtures 08-05 and 08-12 requested the General Assembly to clarify the issue of what the essential tenets were (PC(USA) Minutes 2004:608-610, 619-620). The ACC advised that the overtures not be approved (:610-611). The GAC's reply to the overtures (:611-612) became the majority motion from the Assembly Committee on Theological Issues and Institutions, and was approved by the General Assembly as a statement on the issue of essentials (:15).

The GAC highlighted the whole history of essentials since 1729. The *Adopting Act of 1729* regularised the confessional standards, but did not identify the "essential and necessary articles." The 1910 General Assembly of the PCUSA, however, identified five doctrines as essentials; namely: inerrancy of Scripture; virginal birth; sacrificial atonement; bodily resurrection; and Christ's miracles. They were repeatedly challenged, but not repealed. After the 1923 General Assembly, in which the five essentials appeared again, 1,200 ministers signed the Auburn Declaration, stating that the five doctrines were set too narrowly, since there are more themes in Scripture than just these. This led to the *Special Commission of 1925* whose report was adopted by the 1927 General Assembly of the PCUSA. The report found that the General Assembly could not decide what the essentials were; thus, the five essentials were eliminated. Also, the presbytery (and sessions) has historically had the power and responsibility to determine candidates' confirmation with the church's theology (PC(USA) Minutes 2004:16).

5.44.2 Overtures on G-6.0106b

Overtures 05-05, 05-07, 05-06, 05-08, and 05-09 dealt with ordination standards and G-6.0106b. Overture 05-07 requested the General Assembly to issue an Authoritative Interpretation that ordaining bodies were no longer bound by statements which

predated the adoption of G-6.0106b. Thus, the 1978 "definitive guidance" statement, and Authoritative Interpretations which were affirmations of it, that self-affirming, practicing homosexual persons could not be ordained, should be deleted. Five presbyteries concurred (PC(USA) Minutes 2004:394). The ACCOM delivered its reports and voted 35-30 to recommend Overture 05-07 (Van Marter 2004d:1). However, the minority report was approved as the main motion (PC(USA) Minutes 2004:77), by a narrow 259-255 vote, and the minority measure was approved by a 297-218 vote (Van Marter 2004e:1).

The statement recognised the church's commitment to a church-wide process of discernment with the leadership of the TTF, and asked the church to pray for the TTF (PC(USA) Minutes 2004:78-79). The other overtures were answered by this response (:79). Thus, the 2004 General Assembly took no action again on the 1978 "definitive guidance," but rather delayed all decisions regarding ordination and G-6.0106b until the final report of the TTF, which was due in 2005.

5.44.3 Recognising Same-Gender Civil Marriages

Commissioner's Resolution 10-17 requested the General Assembly to reject laws that denied the right of same-gender couples to have a civil marriage and the discrimination in benefits and privileges they experienced (PC(USA) Minutes 2004:825). The Assembly Committee on National Issues presented their report, and an amendment to the statement was approved, affirming the church's position in W-4.9001 that marriage could only be between a man and a woman (:56).

The General Assembly voted to issue a resolution which stated, in part:

> * Affirms the Presbyterian Church's historic definition of the meaning of marriage as a "civil contract between a woman and a man". . .
> * Declares that all persons are entitled to equal treatment under the law (Constitution of the United States of America); therefore
> * Urges state legislations to change state laws to include the right of same-gender persons to civil union and, thereby, to extend to them all the benefits, privileges, and responsibilities of civil union, and urges all persons to support such changes in state laws.
> * Urges the Congress of the United States of America to recognize those state laws that allow same-gender union and to change federal laws to recognize all civil unions licensed and solemnized under state law to apply in all federal laws

> that provide benefits, privileges, and/or responsibilities to married persons (PC(USA) Minutes 2004:59).

The General Assembly would support gays and lesbians, but would not advocate for their civil marriage rights, only their civil union rights, since marriage could only be between "a man and a woman."

5.44.4 Summary

The 2004 General Assembly, by a mere four votes, decided not to send an amendment regarding the nullification of the 1978 "definitive guidance," and affirmations thereof in Authoritative Interpretations, to the presbyteries. It also did not clarify or specify what the essential tenets were, honouring the long tradition of the Presbyterian Church that it was best left to the presbyteries and sessions. Last, it approved a resolution to support the civil union rights of gays and lesbians, but not their civil marriage rights. All eyes were fixed on the 2006 General Assembly, which would deal with the 2005 *Peace, Unity, and Purity* Report.

5.45 The Investigating Committee of National Capital Presbytery in *Jensen v. Andrews*. Disciplinary Complaint in 2004

Mr. P R Jensen filed a disciplinary complaint against the Moderator of the 2003 General Assembly, Rev. S Andrews, on the last day of her term at the 2004 General Assembly. The complaint alleged that she had violated her ordination vows by installing a gay associate pastor, Rev. E S Winette, in her congregation of Bradley Hills, Maryland (Smith 2004b:1) in 1998, and for continuing to support him (Presbyweb 2005). Jensen had earlier filed charges [sic - complaint] against Winette for being a sexually active gay, but the charges [sic - complaint] were dismissed by an Investigating Committee of National Capital Presbytery (Presbytery) and the PJC of the Presbytery denied an appeal (Kibler 2004a:1-2, The Layman Online 2002g:2). The Investigating Committee invited Jensen to testify; he declined, the committee dismissed the complaint, and Jensen did not appeal the decision in time (Presbyweb 2005).

5.46 The Ordination of Ms. E Marlow in 2005

In September 2003, the Presbytery of Milwaukee, Wisconsin (Presbytery) approved Ms. E Marlow as a candidate, despite her declaring to the CPM that she was a lesbian. Marlow was enrolled as inquirer in 1999 (Kibler 2003d:1). In February 2005, she received a call to be a chaplain. In the presbytery packet, the CPM stated she was eligible for ordination, since she did not self-acknowledge that she was in a lesbian relationship. Marlow was approved by a 104-20 vote (Adams 2005e:1) and received into membership of the Presbytery of Twin Cities Area with a large majority vote. A protest was immediately filed (Adams 2005g:1), but this writer could not find any evidence that any further action was taken.

Ms. Marlow applied exactly what G-6.0106b stated; namely, the key was self-acknowledgement. As long as sloppy wording existed in the most divisive sentence in the Constitution, and one did not self-acknowledge any sin, one was eligible for ordination and/or installation. An ordaining body could, however, find that one was ineligible.

5.47 *The Presbyterian Church (U.S.A.) through Mission Presbytery v. Rigby* in 2005 and 2006

Rev. J Rigby in Mission Presbytery, Texas, participated in the “blessing” of the “marriages” of fifty same-gender couples in Austin, Texas on 23 April 2004. A complaint was filed with the presbytery, and Jensen was retained as counsel for the accusers to prepare the complaint. Additionally, Rigby was charged with performing other same-gender marriage ceremonies, and participating in the ordination and installation of self-affirming homosexual persons (Brown & Parr 2004:2). The accusers stated that Rigby had confirmed all the allegations to them in person, as well as in news interviews (:3). The presbytery appointed an Investigating Committee, which completed the investigation and declined to file charges against Rigby. Jensen appealed the decision to the PJC of the Mission Presbytery (PPJC) to review the decision (Adams 2005f:1).

In July 2005, the PPJC's Review Committee overturned the dismissal because it was "based upon an inappropriate investigation." It sustained the petition and the presbytery voted on a second investigation (The Layman Online 2005a:1). After a second investigation, the Investigating Committee again decided not to proceed with a trial (The Layman Online 2006a:1). Jensen and the two accusers, under the *Book of Order*, had no further remedy for review; thus, the case was closed. Rigby, however, had preferred a trial so that the church courts would have to deal with the issue of same-gender marriages (Van Marter 2006b:2). A month later, the trial of Rev. Dr. J A Spahr would start and go all the way to the GAPJC (see Chapter 5.59).

5.48 The GAPJC Ruling in *Williamson v. Presbytery of Western North Carolina*. Remedial Case 217-7 in 2005

In October 2003, the PLC issued a statement, *A Declaration of Conscience*, which stated, in part:

> We no longer believe that either the General Assembly per-capita budget or the unrestricted mission budget of the PCUSA [sic] is worthy of support (The Presbyterian Lay Committee 2003).

For some time, the PLC had been advocating and recommending that congregations not send their per-capita payments for each member, which are voluntary, and are used to sponsor the mission work on presbytery, synod, and General Assembly levels.

In December 2003, the Validated Ministry Task Force of the Presbytery of Western North Carolina (Presbytery), in which Rev. P T Williamson, Chief Executive Officer of the PLC and Editor-in-Chief of The Presbyterian Layman, was a member with a validated ministry since 1989, voted and recommended to the COM that his validation be withdrawn. Some said it pertained to the "character and conduct" of the PLC (Adams 2003l:1), especially their advice to congregations not to pay their per capita dues. Yet, the 2003 GAPJC had ruled that presbyteries could not compel congregations to pay per-capita dues, since they were voluntary (Scanlon 2004a:1).

In February 2004, the presbytery, by a 150-106 vote, declared Williamson's ministry no longer validated. The presbytery voted to make him a member-at-large, which he

protested against. It meant he would still have a voice in the presbytery (Scanlon 2004b:1). One member of the COM named The (Presbyterian) Layman's "ongoing tone of insult, innuendo and what often appears to be slanted reporting which discredits. . ." as a reason for the decision (Scanlon 2004e:1). Williamson filed a complaint with the PJC of the Synod of the Mid-Atlantic (SPJC).

In September 2004, the SPJC sustained 7 of the 26 errors that Williamson specified with various degrees of approval. The SPJC ruled 10-0 that the presbytery had made procedural errors. But, it ruled 10-0 that the presbytery did not err in designating Williamson as member-at-large. The SPJC ordered the presbytery not to take any action involving the validation of Williamson's ministry for a year, and to formulate a process of reconciliation (Scanlon 2004e:1-2).

Both Williamson and the presbytery filed an appeal with the GAPJC over the SPJC ruling. In April 2005, the GAPJC reversed the SPJC ruling that the presbytery take no action for a year. It ruled against the presbytery that the SPJC could not enforce a plan of reconciliation, and instructed the presbytery to formulate a reconciliation plan and written criteria by January 2006. It ruled only in favour of one of the five specifications of Williamson that the presbytery policy of validation since 2002 was insufficient. The presbytery could take the PLC's Declaration into consideration for validating Williamson's ministry (PC(USA) Minutes 2006:475-484). Williamson, however, retired later in 2005. Questions regarding his status as honourably retired minister would force the Stated Clerk, Kirkpatrick, to issue Advisory Opinion Note 20 (2007:1-4). Williamson continued to serve as a consultant to the PLC and was Editor Emeritus of The (Presbyterian) Layman (The Layman Online 2007a).

5.48.1 Summary

The decision by the Presbytery of Western North Carolina to remove Williamson from validated ministry status, and the resulting ecclesiastical appeals which reached the GAPJC, added fuel to the fire in the long battle between the PLC and the Presbyterian Church. Williamson, the PLC through its The Presbyterian Layman and The Layman Online continued to be extremely negative and critical voices within the

denomination. However, since there was no article in the Constitution which required accountability from the PLC, it continued to state and print not only their vitriolic criticism over the governing of the denomination, but fastidiously reported and distorted the news. The *Book of Order* articles G-6.0106b and W-4.9001 regarding ordination and heterosexual marriage, respectively, conformed to the PLC's views; yet, they vilified anyone, whether gay, lesbian, or heterosexual, who dared to disagree with their views, especially "God's call to a holy life."

5.49 The 217th General Assembly of the PC(USA) in 2006

The 2006 General Assembly received the long-awaited 2005 *Peace, Unity, and Purity* Report by the TTF, which was appointed by the 2001 General Assembly. The Report was released in 2005 to all congregations, sessions, and presbyteries to discuss. Many overtures were received not to accept the whole *Peace, Unity, and Purity* Report, or not to accept Recommendation 5, which requested a new Authoritative Interpretation on G-6.0108. The Report would be a defining point in the decades-long ordination and/or installation debate.

5.49.1 The 2005 *Peace, Unity, and Purity* Report of the Theological Task Force

The TTF met frequently over a four-year period, and studied various issues regarding the peace, unity, and purity of the church. Their final report, *A Season of Discernment*, issued in 2005, contained a summary of their work, with focus on four specific issues: Christology, biblical authority and interpretation, ordination, and power (PC(USA) 2005:14). The TTF stated that they were not asked to take a position on ordination or human sexuality (:20); therefore, they did come with a recommendation regarding G-6.0106b. They stressed that ". . . the church should seek constructive, Christ-like alternatives to the 'yes/no' forms in which questions about sexuality, ordination, and same-gender covenantal relationships have been put to the church in recent decades" (:21). Thus, the TTF came with no recommendation

that G-6.0106b be deleted and/or amended; in fact, their report was based on the premise that it would be retained.

The report had six recommendations, of which the fifth pertained to ordination standards. Recommendation 5 of the Report asked the 2006 General Assembly to issue a new Authoritative Interpretation on G-6.0108 (PC(USA) Minutes 2006:514). The General Assembly approved the majority report of the Assembly Committee on Ecclesiology to approve Recommendation 5, with an addition in Subpart d (underlined) (:28-29):

> a. *The Book of Confessions* and the Form of Government of the *Book of Order* set forth the scriptural and constitutional standards for ordination and installation.
> b. These standards are determined by the whole church, after the careful study of Scripture and theology, solely by the constitutional process of approval by the General Assembly with the approval of the presbyteries. These standards may be interpreted by the General Assembly and its Permanent Judicial Commission.
> c. Ordaining and installing bodies, acting as corporate expressions of the church, have the responsibility to determine their membership by applying these standards to those elected to office. These determinations include:
> (1) Whether a candidate being examined for ordination and/or installation as elder, deacon, or minister of [sic - the] Word and Sacrament has departed from scriptural and constitutional standards for fitness for office,
> (2) Whether any departure constitutes a failure to adhere to the essentials of Reformed faith and polity under G-6.0108 of the *Book of Order*, thus barring the candidate from ordination and/or installation.
> d. <u>Whether the examination and ordination and installation decision comply with the Constitution of the PC(USA), and</u> whether the ordaining/installing body has conducted its examination reasonably, responsibly, prayerfully, and deliberately in deciding to ordain a candidate for church office is subject to review by higher governing bodies.
> e. All parties should endeavor to outdo one another in honoring one another's decisions, according the presumption of wisdom to ordaining/installing bodies in examining candidates and to the General Assembly, with presbyteries' approval, in setting standards (:515).

The General Assembly also added a comment to Recommendations 5-7:

> The success of this proposal is dependant upon all governing bodies taking all standards of the church seriously and applying them rigorously in the examination process. All governing bodies are encouraged to develop resources to ensure that this happens (PC(USA) Minutes 2006:29, 519).

The four-page rationale on Recommendation 5 argued that a new Authoritative Interpretation would restore both rigor and flexibility in ordination decisions by clarifying provisions of G-6.0108, which stemmed from long-established Presbyterian principles. First, the standards for ordination were determined by the whole church, and local governing bodies could not set their own standards. Second, ordaining and installing bodies must apply the church's standards and determine the

fitness of office of those elected on a case-by-case basis. Third, higher governing bodies oversee the decisions by lower bodies, and ordaining and installing bodies determine the fitness for office. This requires mutual respect for each other's decisions (PC(USA) Minutes 2006:515).

Why was a new Authoritative Interpretation needed? G-6.0108 was added in 1983 and required candidates for office to adhere to the essentials of Reformed faith and polity. It also ensured freedom of conscience in the interpretation of Scripture within certain bounds. Thus, G-6.0108 made a serious distinction between standards and essentials. Departure from standards, not deemed essential, were permitted, but a governing body must discern what the essentials were (PC(USA) Minutes 2006:515). However, the reality was that ordaining and installing bodies had either dispensed with standards, or put higher standards in place (:516).

The new Authoritative Interpretation would not introduce anything new, but affirm the power of the whole church to set standards, and not allow local options. The Authoritative Interpretation reaffirmed two principles from 1729: that the elected officers must conform to the essentials of faith and polity and have the right of freedom of conscience with certain bounds; and that governing bodies must apply standards and discern which were essential for ordained service. In 1729, ministers could dissent or declare a scruple from articles of the Westminster standards, and ordaining bodies were given the right to determine whether the "scrupled" article was an essential tenet (PC(USA) Minutes 2006:516).

Brown (2005:1) argues that the TTF offered a misleading reading and summary of the intent of the *Adopting Act of 1729*, in drawing the conclusion that each presbytery was free to determine what the essentials were. Brown argued backward that since a scruple was declared over Chapters 20 and 23 of the Westminster Confession, it ". . . shows clearly that the essential matters consisted of e*very part of the confession* [sic - capitalised], except the selected chapters 20 and 23" (:2). Thus, the whole Westminster Confession was essential. Yet, the Preliminary to the Adopting Act, quoted by Brown, stated that any minister could declare a ". . . scruple with respect to any article or articles of said Confession or Catechisms . . ."

The new Authoritative Interpretation also affirmed a practice from 1789 of the power of higher governing bodies to review ordination and installation decisions, if challenged, to determine whether examinations were lawfully and fairly conducted, and whether the matter of essentials was adequately addressed. Utilising these two principles, it might lead to two changes in the current ordination practices (PC(USA) Minutes 2006:516).

First, many examinations lacked vigour and the beliefs, practices, gifts, and scruples of the officers-elect were not fully investigated; thus, the Authoritative Interpretation required broad examination. Second, "*Section G-6.0108 puts 'faith and polity' – belief and behavior- on equal footing, as they were in 1729, when scruples were permitted in matters of 'doctrine, discipline, and government'"* [original italics] (PC(USA) Minutes 2006:516). The Report pointed out that, over time an imbalance had developed, with flexibility afforded in doctrine, but requiring strict compliance in conduct and polity. This has conferred greater authority to the Form of Government than the confessions [sic - capitalised] and the Scripture they interpret. The Authoritative Interpretation would restore the balance of the Reformed theological insight that faith and action were inextricably related. Therefore, officers-elect must comply with essentials of polity and practice, as well as faith. Ordaining and installing bodies may exercise judgment in the application of standards of both belief and practice which were deemed by those bodies to be non-essential (ibid).

The Report stressed that every ordaining and installing body, in every case, must decide what departures could be tolerated and which were so serious that essential matters of faith and practice were compromised. The new Authoritative Interpretation would not change G-6.0106b, but help the church while the debate continued (PC(USA) Minutes 2006:517). It would bind how ordaining and installing bodies interpreted a standard, but would not override their power to judge what was essential, or whether a departure from a non-essential was so serious that someone could not be ordained or installed (:518).

Constitutional Musings Note 11 (PC(USA) Constitutional Services 2006a:3) clarified that a mandatory provision may be scrupled, but one still had to comply with it. This was confirmed by the 1982 Hambrick case in the PCUS in which Mark did not

believe in the ordination of women, but when instructed by the presbytery would do so, and was received as minister (see Chapter 3.21).

The TTF concluded, whether G-6.0106b was removed or other standards added, this new Authoritative Interpretation, with its emphasis on the right of ordaining and installing bodies to apply the standards in a given case, would continue to ensure that an ordaining body could not be forced to ordain a person whose faith or manner of life it deemed to constitute a departure from essentials of Reformed faith and practice established in *The Book of Confessions* and the Form of Government in the *Book of Order* (PC(USA) Minutes 2006:518).

The ACC commented that neither the GAPJC nor the General Assembly, through Authoritative Interpretations, could change the ordination standards; they could only interpret the standards. This gave weight to the argument that the Authoritative Interpretation prior to G-6.0106b in 1997 should be eliminated, because it added to, rather than interpreted, the then-existing constitutional standards. The question remained whether the 1978 “definitive guidance,” which became Authoritative Interpretation in 1993, added new constitutional standards, rather than interpreting existing ones. This new Authoritative Interpretation would not solve this issue, but a future General Assembly or GAPJC could determine it (PC(USA) Minutes 2006:523).

Finally, after decades of uncertainty and questions, and persistent interpretation of previous ACCs that “definitive guidance” had become Authoritative Interpretation, the 2006 ACC acknowledged that there might be a problem with the 1993 Authoritative Interpretation that “self-affirming, practicing homosexual persons” should not be ordained. The 2008 General Assembly would issue a new Authoritative Interpretation, and would remove both the 1978 “definitive guidance” and 1993 Authoritative Interpretation (see Chapter 5.17.4).

The ACC also reminded the General Assembly that the GAPJC, in regard to G-6.0106b, had clearly stated that the duty to examine extended only to self-acknowledged conduct. The ACC viewed Subpart 2 of Recommendation 5.c as

solving an unresolved issue of someone who might self-acknowledge, but refused to repent:

> Whether any departure constitutes a failure to adhere to the essentials of Reformed faith and polity under G-6.0108 of the *Book of Order*, thus barring the candidate from ordination and/or installation (PC(USA) Minutes 2006:515).

The ACC pointed out that GAPJCs and General Assemblies had not addressed the question of whether or not G-6.0106b's broad prohibition of someone engaged in self-acknowledged conduct was limited by G-6.0108's authorisation of ordaining or installing bodies to determine whether a candidate's departure constituted a failure to adhere to the essentials of Reformed faith and polity (PC(USA) Minutes 2006:523).

The ACC pointed out that the language of G-6.0106b was broader than how it largely had been applied to gay or lesbian relationships. It proscribed the ordination and installation of any person who self-acknowledged any "practices which the confessions call sin" and who refused to repent of that practice (PC(USA) Minutes 2006:523). Again, the 2006 ACC expanded the scope more broadly than previous ACCs; thus, correctly interpreted that ordaining bodies must not limit their questions solely to partnered gay and lesbian Christians.

Interestingly, Advisory Opinion Note 18 (PC(USA) Constitutional Services 2006:3) on Subpart 2 of Recommendation 5.c concurred and gave a new interpretation to G-6.0106b, in light of the Authoritative Interpretation of G-6.0108. An ordaining body was responsible to determine whether a candidate's particular practice or belief departed from essentials of faith and polity. If, for example, a candidate was an executive of a "pay loan" institution that charged 40% interest per month, "the session might determine the person cannot be ordained since the lending practices compromise essentials of Reformed faith and practice, such as those set forth in Section G-6.0106a of the *Book of Order*" (ibid). Thus, the Advisory Opinion viewed G-6.0106b as applying to more practices than just sexual activity outside of marriage. The ACSWP pointed out that the idea of "scruples" had moved from a response to only the Westminster Confession of Faith in 1729 to a response to the whole Constitution, both *The Book of Confessions* and the *Book of Order* (PC(USA) Minutes 2006:525).

When the *Peace, Unity, and Purity* Report was released in 2005, there was concern that Recommendation 5d would establish a local option for ordination, without higher review (Koster 2006a:1, Saperstein 2006:1-2). The Ecclesiastical Committee rectified this by adding:

> Whether the examination and ordination and installation decision comply with the Constitution of the PC(USA), and (PC(USA) Minutes 2006:515).

Koster (2006d:1) points out that this addition balanced out the local option, and the news reports, that the Authoritative Interpretation had set aside all ordination standards, were unfounded. Rev. Dr. M Loudon ([2006]:8-9), a TTF member, argued that Recommendation 5 restored the imbalance of the GAPJC ruling in the 1974 Maxwell case regarding Kenyon, when the power shifted from the presbytery to the General Assembly (:8-9). Several attempts to restore the balance of essential tenets and national standards on the one hand, and God alone is Lord of the conscience and freedom of non-essential on the other hand, had gone unanswered. Therefore, Recommendation 5 was about "national standards and local application" (:9).

This writer believes all the standards were still in place after the 2006 Authoritative Interpretation, including G-6.0106b, and when a candidate declared a scruple, it was open for review by a higher governing body. Constitutional Musing Note 11 (PC(USA) Constitutional Services 2006a:3) stated this Authoritative Interpretation did not overturn earlier Authoritative Interpretations. Thus, scrupling of G-6.0106b did not mean ordination standards had been waived after the new Authoritative Interpretation was issued, which was the view portrayed by the PLC through its The Presbyterian Layman and The Layman Online, Presbyterians for Renewal, the Presbyterian Coalition, the New Wineskins, and other conservative Presbyterians.

The ACC noted that Recommendation 5.d reaffirmed the historic and conditional principle of review of the decisions of lower governing bodies by higher governing bodies. The manner of such review was based on the 1985 Simmons ruling and the 1981 Rankin ruling (PC(USA) Minutes 2006:524), where the GAPJC said it would decline to substitute its judgment for that of ordaining bodies, but it had the power to do so in extraordinary cases (PC(USA) Constitutional Services 2006a:3-4).

Recommendation 6 asked the General Assembly, if Recommendation 5 was approved, not to approve an additional Authoritative Interpretation, not to remove existing Authoritative Interpretations, and not to send an amendment to the presbyteries that would change the policy on Christology, biblical interpretation, essential tenets, and sexuality and ordination (PC(USA) Minutes 2006:518).

The 2006 General Assembly approved the 2005 *Peace, Unity, and Purity* Report of the TTF, and answered all overtures regarding G-6.0106b, G-6.0108, ordination standards, and the rejection of the entire *Peace, Unity, and Purity* Report or only Recommendation 5, in the negative (PC(USA) Minutes 2006:28-29). The vote on Recommendations 1-4 was 87-13%, and the vote on Recommendations 5-6 and issuing a new Authoritative Interpretation was 57-43% or 298-221 (Demarest 2006:1). The emphasis of the new Authoritative Interpretation was on the right of ordaining and installing bodies to apply the standards in a given case, to allow candidates to declare scruples over G-6.0106b, and to maintain all existing ordination standards and previous Authoritative Interpretations. The co-moderator of the TTF, Rev. G Demarest, stressed the use of both G-6.0106b and G-6.0108 (:2).

5.49.2 Overtures on G-6.0106b

Overtures requested that G-6.0106b either be reaffirmed, or deleted and/or a new Authoritative Interpretation be issued that the 1978 and 1979 “definitive guidance” statements, and reaffirmations thereof in the form of Authoritative Interpretations, had no further force (PC(USA) Minutes 2006:33-34). Since none were approved, they will not be discussed. The General Assembly, by a 405-92 vote, affirmed the ACCO’s recommendation to retain G-6.0106b (Silverstein 2006e:1).

5.49.3 Same-Gender Unions and Marriages

The conservative Presbytery of Mississippi sent Overture 04-11, requesting W-4.9001 be amended by deleting “[m]arriage is a civil contract between a woman and a man. For Christians marriage is” and replacing it with “[i]n addition to marriage being a civil contract between a woman and a man, marriage for Christians is also”

(PC(USA) Minutes 2006:345). A paragraph should also be added that, although the civil government could authorise civil marriage contracts, the PC(USA) only recognised heterosexual marriages, and same-gender unions were in opposition to Scripture. The reason for this change was that civil same-gender marriages were legal in the state of Massachusetts (ibid).

The overture mixed up terminology by stating that same-gender marriages were same-gender unions, and alternatively using marriage was between "one man and one woman" with "a woman and a man" (see Chapter 5.2.1 for a discussion on the difference).

The Presbytery of Redstone sent Overture 04-12, requesting that the church not recognise domestic partnerships and same-gender unions (PC(USA) Minutes 2006:347). The ACC and ACSWP proposed that the overtures should not be approved (:345-350), and both the ACCO and the General Assembly concurred (:34).

5.49.4 Summary

The 2006 General Assembly approved the 2005 *Peace, Unity, and Purity* Report of the TTF, and issued a new Authoritative Interpretation of the Constitution which maintained current ordination standards for church officers, but gave greater leeway to sessions and presbyteries in applying those standards to individual candidates for ordination. The Authoritative Interpretation also encouraged candidates to declare a scruple or disagreement with the ordination standards, in line with practices since the *Adopting Act of 1729*, but sessions and presbyteries had to discern whether a candidate's departure from the standards of the church was essential or non-essential. Also, these decisions could be reviewed by higher governing bodies.

The Stated Clerk, Kirkpatrick, reiterated that the ordination standards did not change, but the process encouraged a more pastoral approach (Dart 2006, Schlosser-Hall 2006:1). Also, candidates could not declare a departure from mandatory provisions, such as baptising an infant. Kirkpatrick, in two responses, clearly stated that

G-6.0106b was not a mandatory provision, but a ordination standard which could be scrupled (PC(USA) Constitutional Services 2006a:3, PC(USA) Office of the General Assembly 2007).

The result of the new 2006 Authoritative Interpretation on G-6.0108 was that some presbyteries adopted their own set of essential tenets which was binding on all minister members. This would lead to several ecclesiastical trials; namely, the Davis, Bush, Buescher, and Washington, 1793 rulings (see Chapters 5.53, 5.56, 5.57, and 5.58). Constitutional Musing Note 11 (PC(USA) Constitutional Services 2006a:1-3) specifically pointed out that subscription and prescriptive answers were forbidden since 1927 and affirmed by the 1981 Rankin case.

The General Assembly also overwhelmingly reaffirmed keeping G-6.0106b in the *Book of Order*. Overtures to prohibit same-gender unions or marriages and not to recognise them through a change in W-4.9001 were defeated.

5.50 The New Wineskins Association of Churches

After the release of the 2005 *Peace, Unity, and Purity* Report, 125 congregations formed the New Wineskins Initiative, which, in 2006, became the New Wineskins Association of Churches (NWAC or New Wineskins). After the June 2006 General Assembly approved the 2005 *Peace, Unity, and Purity* Report and issued a new Authoritative Interpretation, the NWAC put together a leadership team to discern how congregations could leave the denomination and keep their property, and to recommend to sessions to redirect their per capita giving (Hill 2006a:1-2). In August 2006, it sent correspondence to the Stated Clerk, Moderator, and all synod and presbytery executives calling for a moratorium on disciplinary and administrative actions against churches and officers seeking to leave the denomination (Hill 2006b:1).

This forced the Stated Clerk and Moderator (Kirkpatrick & Gray 2006:1) to issue a statement, despite the fact that the NWAC claimed freedom of conscience, that even the General Assembly lacked the authority to declare a moratorium on upholding the

Constitution. On 29 January 2007, the Stated Clerk and GAC Executive Director sent a letter to every congregation not to leave, in reaction to several congregations who had announced they would leave the denomination (Kirkpatrick & Valentine 2007). On 9 February 2007, the NWAC asked the EPC to create a non-geographical New Wineskin presbytery for churches wishing to leave the PC(USA) (Hill 2007b:1). From 2006-2009, tens of congregations have left the PC(USA) for the EPC and, in many cases, the legal battle over property ownership continues, since all congregational property is held in trust by the local presbytery.

5.51 The GAPJC Ruling in *Session of Colonial Presbyterian Church in Kansas City, MO v. Session of Grace Covenant Presbyterian Church in Overland Park, KS*. Remedial Case 218-01 (formerly 217-15) in 2006

In April 2004, the Session of Grace Covenant Presbyterian Church in Overland Park, Kansas (Grace) initiated a series of congregational discussions and circulated mailings to prepare the congregation for the election of officers in May (PC(USA) Minutes 2008:297). The letter from session to the congregation stated that ". . . at least one of the nominees might be out of order according to one paragraph in the Constitution G-6.0106b" (:329 Endnote 2). These discussions and mailings centred on the issue of ordination standards of G-6.0106b. On 16 May, the congregation elected a slate of eight officers (:298).

At the June 2004 meeting of the COM of the Presbytery of the Heartland (Presbytery), members expressed concern about Grace's election of a woman, "thought to be a lesbian." An appointed task force of the COM met with representatives of Grace on 24 June, and reported that "the congregation was very well prepared for this particular election of officers" (PC(USA) Minutes 2008:298). The record does not show the COM took further action. Subsequently, the four elders-elect were ordained and/or installed on 18 July (ibid).

On 13 September 2004, the Session of Colonial Presbyterian Church in Kansas City, Missouri (Colonial) made a written request to the Session of Grace to cure an alleged delinquency in the ordination and installation of one or more elders, but Grace did

not act to correct the alleged delinquency at its next stated meeting on 20 September. Colonial asked Grace for the questions used to examine elders-elect. An elder from Grace sent a reply with the questions asked, but there was no direct question regarding G-6.0106b. On 13 October, Colonial filed a complaint with the PJC of the Presbytery of the Heartland (PPJC) against Grace, claiming an irregularity and a delinquency in the examination, ordination, and installation of its elders-elect (PC(USA) Minutes 2008:298).

In December 2004, the PPJC Moderator and Clerk examined the papers, and found the complaint did not state a claim upon which relief could be granted. On 31 January 2005, Colonial challenged the findings of the Moderator and Clerk. The PPJC, on 10 March, upheld the findings of the Moderator and Clerk, and dismissed the complaint for failure to state a claim upon which relief could be granted. Thus, no trial was held. On 20 April, Colonial appealed the decision of the PPJC to the PJC of the Synod of Mid-America (SPJC). The SPJC held a hearing on 28 October 2005, and upheld the decision of the PPJC, dismissing the case for failure to state a claim under D-6.0305d (PC(USA) Minutes 2008:298).

The SPJC based its ruling on the 2003 GAPJC ruling in *San Joaquin v. Presbytery of the Redwoods*, that sexual orientation alone was not sufficient grounds for further questions. Also, Colonial failed to prove that the elder had self-acknowledged any sin and how, where and under what circumstances the self-acknowledgement took place as required by the 2003 San Joaquin ruling (Adams 2005k:1).

Colonial filed an appeal with the GAPJC in December 2005, and the case was heard in July 2006, but the ruling was only issued on 16 October 2006. The GAPJC sustained specification of error one that the SPJC committed an injustice when it ruled that Colonial's complaint failed to state a claim upon which relief could be granted. Colonial alleged that Grace failed to conduct sufficient inquiry consistent with the standard set forth in the 2002 Wier II ruling. Grace failed to inquire of each of the elders-elect as to whether he or she was living in compliance with G-6.0106b. Colonial based their allegations on the materials distributed to the congregation leading up to the congregation's election of four persons to serve as elders, raising

the concern about at least one person not being in compliance with G-6.0106b, as well as a report from the COM (PC(USA) Minutes 2008:298).

The GAPJC stated that the crux of the complaint was whether Grace, according to the Wier II ruling, had reasonable cause for further inquiry of the elders-elect as to their willingness to uphold all the standards for ordination and installation. However, Wier II also required "direct and specific knowledge." Also, in light of the 2003 McKittrick ruling, a PJC must assume the facts alleged in the complaint and then determine whether those facts warrant any relief. The GAPJC found itself compelled to accept as true the allegations that Grace may have had cause for further inquiry based on its knowledge of the elders-elect. Therefore, the GAPJC could not with certainty find that the complaint stated no claim upon which relief could be granted (PC(USA) Minutes 2008:299).

The GAPJC did not follow its own guidance set in the Wier, McKittrick or San Joaquin rulings. Not once did the GAPJC mention that no evidence of self-acknowledgement existed, or that Colonial had provided clear and palpable evidence to prove the elder was a self-acknowledged lesbian. They claimed under the second specification of error that they were only deciding the jurisdictional questions, but not reviewing evidence (PC(USA) Minutes 2008:299). Colonial's arguments and evidence were simply unconvincing; yet, the GAPJC reversed the SPJC decision on the narrow question of whether Grace had conducted a sufficient examination of the elders-elect (cf. ibid).

The GAPJC unanimously reversed both the SPJC and PPJC decisions. It instructed the presbytery to appoint a special administrative review, and, if it determined the examination of the elder-elect was not sufficient, to use its authority to assure that future examinations were conducted in compliance with the Constitution (PC(USA) Minutes 2008:299). If the dispute between the parties was not resolved by the special administrative review, then the Presbytery PJC would have to hold a trial, but parties should be mindful of the standards in the Wier II ruling (:300).

5.51.1 Summary

The 2006 GAPJC ruling in the Colonial decision left many questions. Nowhere was it mentioned that the elder-elect had self-acknowledged any sexual sin, or that clear palpable evidence existed that the person was in violation of ordination standards. In this writer's opinion, Colonial simply did not prove their case; thus, both the PPJC and SPJC were correct in their rulings.

This writer contacted the minister of Grace, Rev. J McKell, regarding the outcome. For two years, Colonial refused to meet with Grace. After the GAPJC ruling, the PPJC appointed a mediator, and the two sessions met. Ground rules were set that neither of the sessions would appeal the ruling of the PPJC, and no verbal testimony would be used; only written documents. During the trial, it was not established that any elder had self-acknowledged any sexual practice, nor was there any clear and palpable evidence, which the Wier II ruling required. The PPJC found that Grace had not violated the Constitution, and the case was closed.

5.52 The GAPJC Ruling in *Stewart v. Mission Presbytery*. Remedial Case 218-04 in 2007

The Mission Presbytery (Presbytery) held a stated meeting in October 2005. In the call to that meeting, the Moderator stated:

> An inquirer who is ready to be accepted as a candidate for ministry wishes to inform you that she is a lesbian and lives in a committed relationship. Although our *Book of Order* (G-14.0305a-i) requires those coming to be ordained to observe fidelity in marriage and chasteness in singleness, the *Book of Order* does not place this standard on those in the candidacy process (PC(USA) Minutes 2008:306).

This statement would later be vital when the GAPJC ruled on an appeal, since it turned out to be incorrect.

The presbytery voted to move the person from inquirer to candidacy by a vote of 169-114. In January 2006, Rev. G R Stewart filed a remedial complaint against the presbytery with the PJC of the Synod of the Sun (SPJC), requesting the presbytery to remove the candidate from the roll of candidates for minister of the Word and Sacrament. The SPJC conducted a trial on 9 September, but the vote was tied; thus,

failing to sustain the complaint. Stewart appealed to the GAPJC in October. The GAPJC issued a Preliminary Order on 20 October. The candidate sent a letter to the CPM in November, requesting that her name be withdrawn from the roll of candidates. On 3 March 2007, the presbytery voted to remove her from the roll of candidates for minister of the Word and Sacrament. The presbytery moved to dismiss the case on the grounds that the complaint was moot (PC(USA) Minutes 2008:306).

The Executive Committee of the GAPJC issued an Order for Dismissal dated 23 March 2007, on the grounds that the relief requested in Stewart's complaint had been granted, and there no longer was a case upon which relief could be granted. Stewart requested a hearing before the full GAPJC, and the Executive Committee of the GAPJC issued an Order for Hearing on 4 April limited to the issue of mootness, which was heard on 4 May (PC(USA) Minutes 2008:306).

The GAPJC ruled no further relief could be granted, and when the relief requested had been granted, the case was moot (PC(USA) Minutes 2008:306). Stewart also requested guidance since the statements by the presbytery and SPJC cast doubt on the requirements for candidates. The GAPJC, however, responded that it was not an advisory body regarding matters relating to the Constitution (the ACC was), but was charged with deciding cases or controversies (:307).

However, the GAPJC noted with concern that both the presbytery and SPJC appeared to have relied on the *Book of Order: Annotated Edition* entry for the 2000 GAPJC ruling in the Sheldon case, rather than on the language of the case itself. The *Book of Order: Annotated Edition*, under G-14.0305d, provided an erroneous explanation of the Sheldon ruling, in stating:

> An inquirer may be received as a candidate even if not currently eligible for ordination because of G-6.0106b, but could not be ordained if found at the time for certification of readiness for ordination not to be in compliance (PC(USA) Minutes 2008:307).

The GAPJC pointed out that this entry was a misstatement of the case. The Sheldon case pertained to a celibate gay man who was eligible to become a candidate since he had not violated the standard of G-6.0106. The GAPJC ruling in Sheldon concluded:

> However, if the [Presbytery] should determine the Candidate to be ineligible for candidacy at some point in the future, the [Presbytery] should remove the Candidate's name from the roll of candidates, as provided by G-14.0312 (ibid).

Thus, the provision was built into the Sheldon ruling that if a candidate became ineligible, i.e. not remain celibate; the candidate could not longer be a candidate since it would violate G-6.0106b. The GAPJC, in its Authoritative Interpretation, without specifically stating it, extended the ordination standards required of ministers also to inquirers who advance to candidates for ministry (Haberer 2007a:1, Silverstein 2007c:1). Thus, Kibler (2007:1) is incorrect that it applied to inquirers, since it only applied to inquirers who advanced to candidacy. Those becoming inquirers and those already in the inquiry phase were exempt from the standard in G-6.0106b.

The GAPJC believed the 2002 Wier II was more relevant; that the presbytery, based on its knowledge of the life and character of the candidate, had a positive obligation to uphold the standards for ordination and installation (PC(USA) Minutes 2008:307).

Indirectly, the GAPJC criticised the Office of the Stated Clerk, which issued the *Book of Order: Annotated Edition*, and which misinterpreted the Sheldon ruling when it applied it to G-14.0305d. The GAPJC admonished that the *Book of Order: Annotated Edition* was helpful, but not authoritative (PC(USA) Minutes 2008:307).

Four members dissented from the majority decision that the matter was moot. They believed that whether or not the presbytery's approval of the candidate was irregular was not rendered moot by the candidate's request to withdraw her name. They believed Stewart should have been able to amend his complaint against the presbytery (PC(USA) GAPJC 2007:4, absent in PC(USA) Minutes 2008). On the rest of the ruling, they concurred with the majority (:5).

5.52.1 Summary

The 2007 GAPJC, in the Stewart ruling, found that the case was moot since the candidate had asked to be removed and had been removed from the roll of candidates of Mission Presbytery. Indirectly, the GAPJC ruled ordination standards also applied to inquirers becoming candidates for ministry, and not just candidates and candidates ready to receive a call. Thus, self-acknowledged gays and lesbians were not eligible to advance from inquirer to candidate, unless they became celibate. Although G-

6.0106b was not mentioned in the ruling, the GAPJC extended it to candidates as well, since they were in the process of advancing to ordination as ministers of the Word and Sacrament. Additionally, the *Annotated Edition of the Book of Order* was helpful, but not authoritative, and its guidance under G-14.0305d was incorrect.

5.53 The PJC of the Synod of the Pacific Ruling in *Session of Davis Community Church, et al. v. Sacramento Presbytery*. Remedial Case 06-03 in 2007

The Sacramento Presbytery (Presbytery) opposed the Authoritative Interpretation which the 2005 *Peace, Unity, and Purity* Report asked the 2006 General Assembly to issue, and sent Overture 06-21. The overture was answered by the adoption of the Report (PJC of the Synod of the Pacific 2006:2). Later, the Stated Clerk, Kirkpatrick, sent a letter to all presbytery Stated Clerks expressing concern over some actions, e.g. setting aside the Authoritative Interpretation of G-6.0108b, setting "super standards" for ordination, establishing questions required to be answered for ordination and/or installation, or determining in advance which answers would be unacceptable (:3). A special meeting of Sacramento Presbytery was called for 9 September 2006, and four resolutions were accepted by majority vote (:2).

The Stated Clerk of the Synod of the Pacific contacted the Stated Clerk of the Sacramento Presbytery, Rev. R Pearson, and expressed concern that the presbytery had taken an action contrary to the Constitution. Two ministers wrote to Pearson giving notice that a motion would be made at the next presbytery meeting to rescind the previous action. The vote was 63-62 to place the motion on the docket, and Pearson stated that a two-thirds vote was needed. Therefore, the presbytery did not consider the motion to rescind (PJC of the Synod of the Pacific 2006:5).

Five sessions (Davis *et al*) filed a complaint with the PJC of the Synod of the Pacific (SPJC), specifying six irregularities. The SPJC overturned all four resolutions of the presbytery and set them aside. Resolution 1 stated:

> . . . Sacramento Presbytery holds that all candidates for ordination, installation, and/or membership in the Presbytery shall comply with all standards for ordination set forth in the Constitution . . . or shall be ineligible for ordination, installation and/or membership (PJC of the Synod of the Pacific 2007a:2).

This meant no scruples would be allowed by the presbytery. The SPJC ruled that Resolution 1 was unconstitutional by a 9-1 vote (:4).

Resolution 2 stated:

> . . . Sacramento Presbytery shall not receive into membership, nor recognize as a member anyone who has been ordained or installed under a scruple that is taking exception to any ordination standards as set forth in the Constitution. . . (PJC of the Synod of the Pacific 2007a:2).

The SPJC found Resolution 2 more egregious than Resolution 1 and was unconstitutional (:6). Resolution 3 pertained to the withholding of per capita dues to the synod and General Assembly and was ruled to be inappropriate (:6-7).

Resolution 4 stated:

> . . . Sacramento Presbytery shall take no action to enforce any general trust interest claimed against any property, real or person, held by an individual congregation within the Sacramento Presbytery (PJC of the Synod of the Pacific 2007a:3).

The SPJC sustained the complaint, since the resolution contravened the trust provisions of Chapter 8 of the *Book of Order* and was unconstitutional (:9). This resolution had to do with several congregations planning to leave the PC(USA) with their property and join the EPC. Since this ruling, several congregations in Sacramento Presbytery have left the denomination.

The SPJC concluded with general comments. A presbytery may not *a priori* exclude persons who declared a scruple within the acceptable standards, but must decide if a particular scruple disqualified someone from ordained office. A presbytery was not entitled to set new standards which imposed greater limitations on ordination or conversely removed the stated impediments to ordination. The 2005 *Peace, Unity, and Purity* Report showed the PC(USA) did not have uniformity in the interpretation of standards and essentials (PJC of the Synod of the Pacific 2007a:10).

5.53.1 Summary

In the 2007 Davis ruling, the PJC of the Synod of the Pacific dealt with the effect of the 2005 *Peace, Unity, and Purity* Report and the Authoritative Interpretation issued by the 2006 General Assembly. The SPJC ruled a presbytery could not set super standards for ordination and/or installation and membership, decide which answers

were unacceptable, and not accept anyone who declared a scruple or who has been ordained elsewhere and declared a scruple. Thus, the Resolution was unconstitutional. Refusing to receive or recognise anyone who had declared a scruple ". . . is contrary to the long established history of connectivity, church-wide standards, the conscience of individual candidates and the collective discernment in the application of the standards for ordination" (PJC of the Synod of the Pacific 2007a:6). "A presbytery may not *a priori* exclude persons who declare a scruple within the accepted standards for such declaration in the ordination or installation process. . . . It is incumbent upon the presbytery . . . to decide if a particular scruple disqualifies a person from ordained office" (:10).

5.54 The Presbytery of Baltimore and Rev. D Stroud

Rev. D Stroud of the Presbytery of Baltimore was ordained in 1975 (Smith 2001e), and under the 1978 and 1979 "definitive guidance," should have been protected from prosecution, since his ordination occurred before the 1978 General Assembly decision regarding "definitive guidance." After G-6.0106b became part of the *Book of Order* in 1997, Stroud announced publicly that he could not, as a matter of faith and conscience, comply with it. Additional impetus was added when he started working for TAMFS in 1999, a group working to eliminate barriers to the full participation of gays and lesbians in the PC(USA). Jensen found Stroud's name and filed a complaint in September 2001 that Stroud was not keeping his ordination vows as an openly gay man, and accused him of heresy (Smith 2002f:1).

A two-person Investigating Committee was appointed to investigate the complaint and to decide whether to file a formal charge with the PJC of the Presbytery of Baltimore (PPJC). After the investigation ended in June 2002, it declined to prosecute Stroud. The rest of the PPJC reviewed the decision, and it, too, declined to prosecute Stroud. Although all names in complaints were kept confidential, both Stroud and Jensen released their names (Scanlon 2002g:1). Stroud, in turn, again declared his defiance of G-6.0106b, and stated he was in a relationship which he believed was not sinful. Jensen requested a review of the decision, but the *Book of Order* only allowed a review on the grounds of procedural irregularity (Smith

2002f:1). The PPJC appointed two members to investigate the petition for review and concurred with the Investigating Committee that no charges should be filed (The Layman Online 2002j:1). Thus, the disciplinary case against Stroud was halted.

The issue regarding Stroud and the Baltimore Presbytery needs to be framed against the larger developments in the denomination at that period. Jensen and his conservative allies voiced their frustration with the process of Investigating Committees and PPJCs after laying charges in ten presbyteries. Although complaints were investigated, the Investigating Committees in those presbyteries would not prosecute, and the PPJCs concurred with those decisions. Jensen filed petitions for review, but they all failed. (Scanlon 2002g:1; 2002h:5, The Layman Online 2002j:1).

Jensen and others started calling the situation a "constitutional crisis" (Scanlon 2002h:2). Jensen, Rev. A Metherell, and others led a campaign to gather enough commissioners' signatures to force the Moderator of the General Assembly, Rev. Dr. F Abu-Akel, to hold a special General Assembly to deal with the crisis. This ultimately led to charges which were filed with the GAPJC against Abu-Akel and the Stated Clerk, Kirkpatrick, for not calling a special General Assembly meeting (PC(USA) Minutes 2003:286-291).

Additionally, the 2002 General Assembly decided, after considerable debate, not to approve the overture of Shenango Presbytery to force the Northern New England Presbytery to create an Administrative Commission to deal with Christ Church's defiance regarding G-6.0106b (Scanlon 2002h:2-3).

At the same time, on 27 June 2002, the Presbytery of Baltimore overwhelmingly recommended that they not pursue any disciplinary or remedial complaints from trying to enforce G-6.0106b. The policy, to be developed by the Presbytery's Council, would state the presbytery's refusal to enforce G-6.0106b (Adams 2002h:1). On 21 August 2002, the Stated Clerk, Kirkpatrick, wrote letters to synod and presbytery Stated Clerks asking that presbyteries comply with the Constitution and stating that the Constitution provided no right of defiance. He asked that synods initiate administrative reviews of cases involving irregularity and delinquency at the presbytery level (Smith 2002g:1). On 5 November 2002, Jensen contacted

Kirkpatrick to intervene and require the Presbytery of Baltimore to meet its obligation to handle the case according to constitutional rules of discipline (Adams 2002h:3). On 21 November, the overture of five evangelical congregations, calling the presbytery to commit to uphold the entire Constitution, was defeated (Scanlon 2002j:1).

After receiving two letters, the Synod of Mid-Atlantic decided, before the PPJC decision regarding the review was released, to create an Administrative Review Committee to examine the Presbytery of Baltimore's action regarding Stroud (Scanlon 2002g:2). A year later, on 17 October 2003, it found that the investigation into heresy charges was procedurally correct, and did not find irregularities or delinquencies by either the Investigating Committee or PPJC (Sniffen 2003:1). It also found Stroud had not been ordained or installed by the Presbytery of Baltimore, but was received in 1999 into validated ministry to serve as a minister of outreach and reconciliation for TAMFS, and was not subject to G-6.0106b (Adams 2003l:1-2). Jensen could not appeal the synod ruling, and the disciplinary case died.

Three members of the Synod Council requested a meeting to review the report (Adams 2003l:1). In December 2004 [sic - 2003], another Administrative Review Committee [sic – Commission] (ARC) was formed, and the previous report's approval was cancelled (Adams 2004e:1). The presbytery threatened to file a remedial complaint against the synod (:2). In January 2004, the council reversed itself; it called off the second review and approved the first review. In March 2004, the council again approved a second review to focus on G-9.0409a, whether the proceedings had been faithful to the mission of the whole church and the lawful injunctions of higher governing bodies had been obeyed, which were excluded from the first review (:1).

In October 2005, the ARC report was presented and the synod found the Presbytery of Baltimore was delinquent in its pastoral and administrative oversight of Stroud's validated ministry and published statements (Presbytery of Baltimore 2007a:1-2). The presbytery took exception that their action was labelled as delinquent by the ARC report (Presbytery of Baltimore 2007b:3). A deadline of 31 March 2006 was set to make the review and meet with Stroud to review his statements regarding

compliance with ordinations standards, and then report it to the June 2007 meeting of the synod, but it was postponed since the meeting ran out of time to discuss it (Synod of the Mid-Atlantic Minutes 2007:9).

In November 2007, the report with attachments was received and approved, but with a note that the "Synod Assembly wishes to express its concerns about Presbytery of Baltimore's response to #7 of the report of the Administrative Review Commission" (Synod of the Mid-Atlantic Minutes 2007:10), i.e. whether Baltimore Presbytery failed in its oversight of Stroud. This writer contacted several persons involved in this issue and it seems the matter was completed and the presbytery, for now, was in compliance.

5.55 Scruples Declared over G-6.0106b in 2007-2008

After the approval of the 2005 *Peace, Unity, and Purity* Report, and the 2006 General Assembly issued a new Authoritative Interpretation on G-6.0108, "scrupling" of the ordination standard in G-6.0106b was allowed. Two gays and a lesbian scrupled the ordination standard of the PC(USA) in 2007-2008.

5.55.1 Ms. Lisa Larges

In the 1992 LeTourneau ruling, the GAPJC affirmed the ruling of the SPJC of Lakes and Prairies that the Presbytery of Twin Cities Area rescind the certification of ready for a call of Larges, since she was a lesbian, despite the fact that it could not be shown she was an "avowed practicing homosexual" (see Chapter 5.14). In 1997, Larges moved her membership to the Presbytery of San Francisco (Presbytery). In 2004, the CPM voted against recommending her for ordination, but with a possible shift in the denomination's policy, they allowed her to continue as candidate (Silverstein 2008a:2).

In December 2007, Larges declared a scruple or departure from the ordination standards in G-6.0106b with the CPM for her to be approved as "ready for

examination," based on the 2006 Authoritative Interpretation of G-6.0108 from the 2005 *Peace, Unity, and Purity* Report. She stated as a matter of faith, conscience and integrity, she could neither actively concur nor passively submit to this provision; therefore, she declared a departure. She concluded that G-6.0106b did not express essentials of Reformed faith and polity; the standard was contrary to essentials of Reformed faith and polity, and to concur or submit to these standards would elevate a flawed standard above standards of faith and polity which she believed to be essential (Larges 2007:1).

Larges provided four rationales for her departure. First, G-6.0106b set a contrary standard requiring obedience to Scripture, and not to Jesus Christ (G-1.0100d). All the errors in the rest of G-6.0106b arose from this initial misconstruction (Larges 2007:1-2). Second, G-6.0106b's "conformity to the historical standards" misstated the proper use and function of the Confessions (:2). Third, G-6.0106b singled out one standard. Larges provided sixteen reasons why she could not accept this standard (:3). Fourth, regarding repentance, our tradition stated that God alone is our judge, and true repentance is known by God alone. Thus, G-6.0106b's conclusion was incomplete and a misleading formulation of the understanding of sin and repentance in our tradition (:4).

On 15 January 2008, the presbytery, by a 167-151 vote, approved Larges as "ready for examination, with a departure" (Silverstein 2008a:1). Her statement of conscience was not a barrier to ordination. If she received a call, she would still have to complete her trials of ordination, which was an oral exam by the presbytery. A challenge to the presbytery's action was immediately filed by three ministers on the CPM, Naegeli *et al*, with the PJC of the Synod of the Pacific (see Chapter 5.65).

5.55.2 Dr. Paul Capetz

Dr. P Capetz was ordained in 1991 and was a minister member-at-large of the Presbytery of the Twin Cities Area in Minnesota (Presbytery), and Associate Professor at Union Theological Seminary. After G-6.0106b became part of the ordination standards in 1997, Capetz struggled with being a gay man who could not

in good conscience pledge a vow of celibacy. He affirmed that he was single. In April 2000, he requested the presbytery to release him from ordained ministry according to the provisions of G-11.0414 (currently G-6.0600). No charges had been filed against him, and the presbytery issued him a certificate of membership in a congregation (Capetz 2000:1, 2007:1).

In August 2007, Capetz requested to be reinstated again as a minister, based on the 2006 Authoritative Interpretation of G-6.0108 from the 2005 *Peace, Unity, and Purity* Report. Capetz argued that the abolition of clerical celibacy was inextricably bound up with the Reformers' understanding as found in *The Book of Confessions* (Capetz 2007:1). The Second Helvetic Confession in 5.245, The Westminster Confession of Faith in 6.126, and The Larger Catechism Answer 138 in 7.248 address this issue. Interestingly, 7.248 addresses chastity, but does not equate it with celibacy. Similarly, it calls all to keep chaste company. One could also add The Heidelberg Catechism Answer 108 which calls us to "live chaste and disciplined lives, whether in holy wedlock or in single life." Clearly, the meaning of "chastity" in the Confessions does not have the meaning of "celibacy" and is not limited to sexual activity, but to a moral lifestyle of "chaste character."

Capetz also followed the line of argument which this writer follows, and stated that the Protestant Church has unintentionally found itself having to deny one of its own essential tenets: vows of celibacy are wrong because they imply a works-righteousness before God. Thus, for the first time in the history of Protestantism, a vow of celibacy was required of an entire caste of persons as a condition of their suitability for church leadership. Yet, the Reformation was unambiguously opposed to vows of forced celibacy as contrary to the nature of the gospel (Capetz 2008c:2).

Capetz rejected any vow of permanent celibacy as a condition for holding office. He argued that if "chastity in singleness" meant a single person was not expected to take a vow of celibacy as a condition for holding office, but rather referred to a manner of life that was morally responsible, then his life was "chastity in singleness." Yet, he still declared a scruple of conscience or principled objection to G-6.0106b, in particular to the moral position of the PC(USA) on the issue of homosexual

relationships. Otherwise, he was in full compliance with the standards for ordained office (Capetz 2007:3, 2008a:1, 2008b:2).

Capetz met with the COM and affirmed that he was gay, but was not currently involved in a relationship. He argued celibacy was a direct contradiction to the basic tenet of Protestant theology; namely, we are justified by faith alone and not works (Scanlon 2007:1). The COM, by a 11-3 vote, recommended Capetz be restored to ordained office. The key issue was whether G-6.0106b was an essential tenet of Reformed faith and, thus, could not be scrupled (Kincaid 2007:1). The majority of the COM found that it was not an essential. The 2005 *Peace, Unity, and Purity* Report and 2006 Authoritative Interpretation clearly showed it was not an essential and could be scrupled. The minority of the COM argued that "shall" must be seen as an "essential" and Capetz should not be reinstated. Additionally, he stated his intention that he would in the future enter into a relationship and depart from G-6.0106b (Kincaid 2008:2).

On 26 January 2008, the presbytery voted on the three recommendations from the COM. By a 197-84 ballot vote, the presbytery found that Capetz' departure from G-6.0106b was not a failure to adhere to the essential of Reformed faith and polity under G-6.0108. By a 196-79 ballot vote, Capetz was restored to the exercise of ordained ministry of minister of the Word and Sacrament, and by voice vote, his ministry was validated. Since the votes passed by more than a two-third majority, opponents could not file for a stay of enforcement (King 2008a:1-2), but Bierschwale *et al* appealed the decision to the PJC of the Synod of Lakes and Prairies, and appealed the SPJC decision to the GAPJC (see Chapter 5.64).

5.55.3 Mr. Scott Anderson

Mr. S D Anderson was ordained in the conservative Sacramento Presbytery in 1982 (Adams 2006c:4), and served as a minister until 1990, when two members of his congregation "outed" him for being in a partnered gay relationship; he resigned his ordination [sic - applied to be released from ordained office] as a matter of conscience (:1). Anderson served as the Executive Director of the Wisconsin Council

of Churches; thus, he moved his membership to a congregation in the progressive John Knox Presbytery. He also served as a member of the TTF which wrote the 2005 *Peace, Unity, and Purity* Report (Presbyterian Outlook 2006:1) and openly acknowledged he had been in a gay relationship for seventeen years (VanderVelden 2008:2).

The former G-11.0414c, currently G-6.0600c, required that if Anderson wanted to be restored to ordained office, he had to apply to the body which granted the release. Anderson, in private correspondence with this writer, shared why he did not utilise this process. The conservative Presbytery of Sacramento would not approve him as a partnered gay man. Additionally, the presbytery declared, after the 2006 General Assembly's approval of scrupling, it would not accept any candidate for ordination and/or installation who declared a scruple over G-6.0106b (see Chapter 5.53). Therefore, Anderson decided to complete the inquiry and candidacy phases again in John Knox Presbytery to be ordained for a second time as minister of the Word and Sacrament.

On 14 November 2006, he was, through a unanimous vote, enrolled as inquirer in the John Knox Presbytery (Presbyterian Outlook 2006:1). The CPM made the presbytery aware that Anderson had stated his intention to declare a scruple regarding G-6.0106b when he became a candidate (Adams 2006c:1). On 20 November 2008, Anderson (2008:1) declared a scruple regarding G-6.0106b. He argued that the behaviours referenced in the Confessions did not reference faithful and life-long, same-gender partnerships (:3). By a 73-23 vote, the presbytery determined that Anderson's disagreement with ordination standards regarding sexual practice did not constitute a departure from the essentials of the church's faith and practice. By a 64-14 vote, the presbytery moved him into the candidacy phase of ordination (Sweep & Van Marter 2008:1). After one year, he will be examined again, his ordination exams will be waived, and the presbytery will vote whether he is ready for ordination (:2) pending a call. If Anderson receives a call, he will be ordained a second time.

5.55.4 Summary

The January 2008 scrupling of ordination standards by Larges and Capetz would, however, be short-lived. Two weeks later, the GAPJC, in the Bush ruling, would set scrupling aside and declare G-6.0106b an essential which could not be scrupled (see Chapter 5.56). In turn, the Bush ruling would be overturned in June by the 2008 General Assembly, which issued a new Authoritative Interpretation, an affirmation of the 2006 Authoritative Interpretation based on the 2005 *Peace, Unity, and Purity* Report; thus, reconfirming the practice of scrupling (see Chapter 5.60.1). Both Larges and Capetz' approvals by their respective presbyteries would be challenged (see Chapters 5.64 and 5.66).

Anderson scrupled G-6.0106b in November 2008 and was enrolled in the candidacy phase. Thus, the 2005 *Peace, Unity, and Purity* Report and Authoritative Interpretation issued by the 2006 and 2008 General Assemblies have resulted in two gay and one lesbian persons scrupling G-6.0106b and their presbyteries finding that their scruples of ordination standards were not departures from an essential of the church's faith and practice.

5.56 The GAPJC Ruling in *Bush, et al. v. Presbytery of Pittsburgh.* Remedial Case 218-10 in 2008

The Bush ruling was the second of three GAPJC rulings issued on 11 February 2008. However, the Bush ruling is discussed first, since the Buescher ruling was dependent upon it.

Several sessions within the Presbytery of Pittsburgh (Presbytery) proposed a Resolution seeking to clarify the 2006 Authoritative Interpretation of G-6.0108, i.e. Recommendation 5 of the 2005 *Peace, Unity, and Purity* Report, approved by the 2006 General Assembly. After a lengthy process, the Resolution was approved on 12 October 2006 by a vote of 148-105. The Resolution had four parts:

> 1. In its discernment of the essentials of Reformed polity . . . Pittsburgh Presbytery:

> 2. Adopts the principle that compliance with the standards for ordination approved by the Presbyterian Church (USA) [sic] in the *Book of Order* is an essential of Reformed polity. Therefore, any departure from the standards of ordination expressed in the *Book of Order* will bar a candidate from ordination and/or installation by this governing body. Provisions of the *Book of Order* are signified as being standards by use of the term "shall," "is/are to be," "requirement" or equivalent expression;
> 3. Resolves that no exceptions to the requirement that all Ministers of [sic - the] Word and Sacrament must "live either in fidelity within the covenant of marriage between a man and a woman or in chastity in singleness" (*Book of Order*, G-6.0106b) will be allowed within the jurisdiction of this Presbytery;
> 4. Resolves that Ministers of [sic - the] Word and Sacrament shall be prohibited from conducting same-sex marriages within the jurisdiction of this Presbytery (PC(USA) Minutes 2008:320-321).

Three ministers and two sessions of the presbytery (Bush *et al*) filed a complaint of an irregularity and a request for a stay of enforcement with the PJC of the Synod of the Trinity (SPJC) in November 2006. The SPJC issued the stay and a trial was held in May 2007 (PC(USA) Minutes 2008:321). The SPJC, by a vote of 8-3, sustained the first three irregularities. First, the Resolution created a "super standard" which supplanted the denominational standards. Second, it adopted the standards in the *Book of Order* as essentials of Reformed polity, thus wrongfully setting aside the 2006 Authoritative Interpretation of G-6.0108. Third, it prohibited any exception from G-6.0106b, despite the presbytery having to determine *individually* whether each candidate departed from the scriptural and constitutional standards, and whether a departure was a failure to adhere to essentials of Reformed polity and faith (SPJC of the Synod of the Trinity 2007a:2-3).

The SPJC found an irregularity in elevating certain language in the *Book of Order* to an "essential of Reformed faith." The presbytery did not have the authority to create a "super standard." The Resolution incorrectly equated mandatory ordination standards with essentials, an over-simplification when compared to the 1927 *Report of the Special Commission of 1925* (SPJC of the Synod of the Trinity 2007a:2-3). The Report stated that essentials of faith must be determined after the candidate had been examined, it cannot be pre-determined (:3-4). Therefore, the SPJC set aside and declared void paragraph two of the Resolution, since departures from the essential must be determined on a case-by-case basis (:4).

Next, the SPJC dealt with paragraph three and added the word "behavioural" in their discussion. They concluded no exception could be granted to any mandatory church-

wide behavioural ordination standards, and no exceptions or exemptions were allowed. The freedom of conscience in G-6.0108 did not permit disobedience to those behavioural standards (SPJC of the Synod of the Trinity 2007a:4). Thus, the SPJC did not void paragraph three.

Regarding the fourth irregularity that the presbytery did not allow any minister to perform a same-gender marriage, it was not sustained by a unanimous vote (SPJC of the Synod of the Trinity 2007a:4-5). Three commissioners dissented from the majority on setting aside the second paragraph, which they believed was not unconstitutional (:7). The SPJC ruling only declared the second paragraph void.

Two ministers and one session (Bush *et al*) filed an appeal with the GAPJC, not regarding the order of the SPJC, which ruled in their favour, but regarding alleged irregularities in the SPJC decision, contending that the SPJC erred in its constitutional interpretation of separating belief and behaviour. The GAPJC heard the appeal in February 2008. The first specification of error stated that the SPJC erred by failing to place faith and practice (belief and behaviour) on an "equal footing" (PC(USA) Minutes 2008:321). Mr. S Pashall argued that the SPJC made a distinction between allowing exceptions to the ordination standards based on beliefs, but not on behaviour (Scanlon 2008b:2-3, 2008c:3).

The GAPJC did not sustain the specification of error. The GAPJC pointed out a huge loophole in the 2006 Authoritative Interpretation and in the complainants' arguments: it included a rationale section which was not adopted by the General Assembly:

> Section G-6.0108 puts 'faith and polity' – belief and behavior – on an equal footing, as they were in 1729, when scruples were permitted in matters of 'doctrine, discipline and government' (Minutes of the 217th [sic - th] General Assembly (2006), pg. 516) (PC(USA) Minutes 2008:321).

However, the finally adopted Authoritative Interpretation did not equate "polity" with "behaviour." This was the crux of the complainants' argument. Nevertheless, the church required those who are examined for ordained office to conform their actions, though not necessarily their beliefs or opinions, to certain standards, in those contexts in which the church has deemed conformity to be necessary or essential, and G-6.0106b contained such a provision which required church-wide conformity (ibid).

The GAPJC confirmed the SPJC distinction between departures from standards of belief, but not from behaviour, in stating that:

> . . . the specific "fidelity and chastity" standard in G-6.0106b stands in contrast to the provisions of G-6.0106a . . . The candidate and examining body must follow G-6.0108 in reaching a determination as to whether the candidate for office has departed from essentials of Reformed faith and polity, but that determination does not rest on distinguishing "belief" and "behavior," and does not permit departure from the "fidelity and chastity" requirement found in G-6.0106b (PC(USA) Minutes 2008:322).

Thus, departures based on conscience would not be permitted from the "fidelity and chastity" standard. The GAPJC, in this decision, made one part of the *Book of Order* an essential standard, and elevated sexual standards above all other required standards to hold office.

Accordingly, the GAPJC agreed with the SPJC decision that "no presbytery may grant an exception to any mandatory church wide behavioral ordination standard" and "[t]he freedom of conscience granted in G-6.0108 allows candidates to express disagreement with the wording or meaning of provisions of the constitution [sic - capitalised], but does not permit disobedience to those behavioral standards" (PC(USA) Minutes 2008:322, cf. PJC of the Synod of the Trinity 2007a:4). Thus, G-6.0106b trumped G-6.0108, and the fidelity and chastity standard may only be changed through a constitutional amendment (PC(USA) Minutes 2008:322). The GAPJC elevated G-6.0106b to an essential, a mandatory standard which could not be waived or scrupled. It issued a new Authoritative Interpretation; thus, setting aside the Authoritative Interpretation issued by the 2006 General Assembly based on the five year-long 2005 *Peace, Unity, and Purity* Report.

The second specification of error claimed the SPJC erred by establishing mandates of the *Book of Order* as "essentials" of Reformed polity. The GAPJC sustained it in part and did not sustain it in part. The GAPJC pointed out that the 2006 Authoritative Interpretation did not and could not change any ordination standard, including the requirements of G-6.0106b. The freedom of conscience under G-6.0108a was limited *only* to the interpretation of Scripture, and to the extent that it was not a serious departure from the essential standards, did not infringe on the rights and views of others, and did not obstruct constitutional governance (PC(USA) Minutes 2008:322)

Ordaining bodies have the right to determine whether scruples constitute serious departure, but:

> . . . attempts by governing bodies that ordain and install officers to adopt resolutions, statements or policies that paraphrase or restate provisions of the *Book of Order* and/or declare them as "essentials of Reformed faith and polity" are confusing and unnecessary (PC(USA) Minutes 2008:322).

The presbytery erred in two regards. The Resolution would define the "essentials" of Reformed faith and polity when it had no authority to do so, and declaring "essentials" outside of the context of the examination of a candidate for ordained office was inappropriate. The GAPJC referenced the 1927 *Report of the Special Commission of 1925* at length, pointing out one vital issue:

> 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 (PC(USA) Minutes 2008:322, cf. PCUSA Minutes 1927:78-79).

Therefore, the GAPJC ruled that the Resolution was unconstitutional and in error. It was not permissible for a presbytery or a session to define "essentials of Reformed faith and polity" outside of the examination of any candidate for office. Such a determination must be made only in the context of a specific examination of an individual candidate (:323).

The GAPJC ordered that all portions of the resolution adopted by the Presbytery of Pittsburgh which were before the GAPJC were void. This meant only paragraph two was declared void, since paragraph four regarding same-gender marriage was not argued before the GAPJC (see PC(USA) Minutes 2008:323).

5.56.1 Summary

The 2008 GAPJC ruling in the Bush decision was a test case for the 2006 Authoritative Interpretation of G-6.0108, based on Recommendation 5 of the 2005 *Peace, Unity, and Purity* Report. Candidates and examining bodies had to follow G-6.0108 in reaching determinations as to whether the candidates for ordination and/or installation had departed from essentials of Reformed faith and polity. However, departures from the church's standards of belief were allowed, but not departures from behaviour, such as the "fidelity and chastity" requirements of G-6.0106b.

Thus, the 2008 GAPJC overruled the 2005 *Peace, Unity, and Purity* Report and the accompanying 2006 Authoritative Interpretation of G-6.0108; it issued a new Authoritative Interpretation that G-6.0106b could not be scrupled, since the approved 2005 *Peace, Unity, and Purity* Report did not equate polity with behaviour. Only in the Rationale portion, which was not approved, was faith and polity (belief and behaviour) placed on equal footing. The Bush decision differentiated between doctrine, which permitted scruples, and practice, which did not permit scruples. G-6.0106b was a specific standard adopted by the whole church and could not be ignored or waived.

The GAPJC also found that G-6.0106b was an essential standard and no departure or "scruple" would be allowed. The Bush decision elevated sexual standards above all other required standards to hold office. In essence, the GAPJC moved the denomination dangerously close to subscription, which Presbyterians rejected in 1927 with the Report of the *Special Commission of 1925* and the 1981 Rankin ruling. Koster (2008c:1) summarises it well:

> The paradox of the Bush case was that on the one hand a presbytery could not declare a set of non-waivable standards, while at the same time it declared a non-waivable standard.

Additionally, the GAPJC stated that governing bodies must examine candidates for ordination and/or installation individually. Attempts to adopt resolutions, statements or policies that paraphrase or restate provisions of the *Book of Order* and/or declare them as "essentials of Reformed faith and polity" were confusing and unnecessary.

The only way to rectify this GAPJC ruling would be for the 2008 General Assembly to approve an overture with a new Authoritative Interpretation, which would replace the Authoritative Interpretation of the 2008 GAPJC in the Bush ruling and reaffirm the 2006 Authoritative Interpretation, by mentioning belief and practice/behaviour. John Knox Presbytery sent such an overture and it was approved by the 2008 General Assembly (see Chapter 5.60.1).

5.57 The GAPJC Ruling in *Buescher, et al. v. Presbytery of Olympia*. Remedial Case 218-09 in 2008

At a meeting of the Presbytery of Olympia (Presbytery) held on 21 September 2006, the presbytery adopted the following Resolution:

> We hereby declare that . . . every mandate of the Book of Order [sic - italicised] (2005-2007) is an essential of reformed [sic] polity. Therefore, any violation of a mandate of the Book of Order [sic - italicised] (2005-2007) constitutes a failure to adhere to the essentials of reformed [sic] polity and thus presents a bar to ordination and installation (PC(USA) Minutes 2008:317).

This Resolution reached beyond the Resolution by the Sacramento Presbytery in the 2007 Davis ruling, declaring every mandate in the *Book of Order* an essential. Specifically, what was not mentioned in the Resolution was that the presbytery viewed G-6.0106b as an essential, and failure to adhere to it barred one from ordination and installation.

Eighteen individuals and one session (Buescher *et al*) filed a complaint with the PJC of the Synod of Alaska-Northwest (SPJC) seeking remedial relief. The complainants specified eight violations of the Constitution. The SPJC held a hearing on 20 March 2007 and issued a ruling on the same day. The unanimous ruling, with no discussion of the allegations or the Resolution, did not sustain the complaint, and affirmed the action of the presbytery. The SPJC stated that the Resolution did not preclude the presbytery from conducting meaningful examination to assess the fitness of individual candidates (PJC of the Synod of Alaska-Northwest 2007:2).

Buescher *et al* filed an appeal with the GAPJC in March 2007, and a trial took place in February 2008. The complainants had five specifications of error against the SPJC, and the GAPJC sustained each one (PC(USA) Minutes 2008:317-318). In its decision, the GAPJC noted that the Resolution was adopted in response to concerns about the implementation of the 2006 Authoritative Interpretation of the 2005 *Peace, Unity, and Purity* Report which was adopted by the 2006 General Assembly (see PC(USA) Minutes 2006:514-515).

The presbytery wished to provide potential candidates, who might declare a scruple for the office of minister of the Word and Sacrament, with guidance as to what the presbytery would consider to be “essential” (PC(USA) Minutes 2008:318). In other

words, these scruples specifically referred to sexually active gay and lesbian candidates or ministers who might declare a scruple regarding “chastity in singleness” in G-6.0106b.

The question was whether the Resolution was constitutional. The rationale contained in the 2008 Bush ruling applied to this ruling, and it was extensively quoted. Attempts to set “essentials of Reformed faith and polity” were confusing and unnecessary. The GAPJC found the Resolution to be unconstitutional (PC(USA) Minutes 2008:318). By declaring, in advance, the mandates to be “essentials,” and by establishing, in advance, the mandates to be an absolute bar to ordination and installation, the presbytery violated G-6.0108 and the (2006) Authoritative Interpretation (:319).

The GAPJC quoted the 1927 *Report of the Special Commission of 1925* regarding “essentials.” One vital sentence was that “[o]ne fact often overlooked is that by the Act of 1729, the decision as to essential and necessary articles was to be in specific cases” (PC(USA) Minutes 2008:319, see PCUSA Minutes 1927:78-79).

Since the SPJC did not make clear what standard of review it used to determine the constitutionality of the Resolution, its review was constitutionally flawed. The GAPJC indirectly criticised the SPJC for not giving any rationale behind its decision. Although the Constitution did not require a PJC to provide a rationale for every part of a complaint, the GAPJC recommended PJCs provide enough explanation to understand the reasons for decisions and to be guided accordingly. The GAPJC unanimously reversed the decision of the SPJC and declared the Resolution of the Presbytery of Olympia void and having no further effect (PC(USA) Minutes 2008:319).

5.57.1 Summary

The 2008 GAPJC, in the Buescher ruling, relied heavily on the 2008 Bush ruling and found attempts by governing bodies to adopt resolutions, statements, or policies which restated provisions in the *Book of Order* and/or declare them as “essentials of

Reformed faith and polity," were confusing and unnecessary. The GAPJC reaffirmed that the 2006 Authoritative Interpretation did not change ordination standards, including the requirements of G-6.0106b. It found not every mandate in the *Book of Order* was an essential, contrary to the Presbytery of Olympia, but "fidelity and chastity" in G-6.0106b was mandatory and an essential for all officers.

5.58 The GAPJC Ruling in *Session of First Presbyterian Church of Washington, 1793, et al. v. Presbytery of Washington.* Remedial Case 218-15 in 2008

The Presbytery of Washington (Presbytery), on 13 March 2007, adopted a *Proposed Resolution* (A) and a *Biblical Standards for Christian Leaders Within Washington Presbytery* (B). The Resolution was a reaction against the 2005 *Peace, Unity, and Purity* report and 2006 Authoritative Interpretation issued by the 2006 General Assembly, and stated:

> *It is an essential of Reformed polity that the Presbytery of Washington comply with and adhere to the standards for ordination adopted by the whole church and expressed in the Book of Order. Therefore, any departure from ordination standards mandated* in the Book of Order, unless repented of, shall bar a candidate from ordination and/or installation by the Presbytery of Washington* [original italics] [*ordination standards mandated in the Book of Order [sic – italicised] include those instructions designated by the terms "shall", "is/are to be", "requirement" or "equivalent expression"] (PJC of Synod of the Trinity 2007b:8).

The presbytery decided G-6.0106b was an essential, and non-subscription would bar one from ordination and/or installation as minister in the presbytery.

Document B which all ministers had to sign, stated some Biblical standards. It included under Personal Standards:

> Sexual Behavior: The Christian leader is committed to fidelity in the covenant of marriage between a man and a woman, and chastity in singleness (PJC of Synod of the Trinity 2007b:9).

Two sessions and twelve ministers (Washington, 1793 *et al*) filed a remedial complaint with the PJC of the Synod of the Trinity (SPJC). The first complaint alleged an irregularity in the adoption of the Resolution and the SPJC sustained it by a 10-0 vote. The SPJC argued that the Resolution would provide an unqualified bar to anyone who was unrepentant of any act or thought which the Confessions call sin (PJC of Synod of the Trinity 2007b:2). The Resolution was in conflict with

G-60108a [sic - G-6.0108a] and the long-established policy that an essential must be determined case-by-case. It also contravened the 2006 Authoritative Interpretation of G-6.0108 (:3).

Additionally, the Resolution was voted down by the COM, but made it to the presbytery meeting without being on the meeting docket, and was approved late in the meeting, without discussion, when many commissioners had already left. The SPJC suggested appropriate opportunities for dialogue. Last, the SPJC pointed out the difference between what was mandatory and what was essential. Mandatory standards generally do not pertain to a specific case and provide the general rule. Essentials pertain to specific situations, and must be determined specifically from candidate to candidate (PJC of Synod of the Trinity 2007b:4).

The second complaint alleged an irregularity in the adoption of the Biblical Standards (B). The SPJC sustained it by a 10-0 vote. The Biblical Standards was an unconstitutional application of subscriptionism which was prohibited by the *Adopting Act of 1729* and reaffirmed by the Swearingen Commission of 1925 (*Special Commission of 1925*) in 1927 (PJC of Synod of the Trinity 2007b:4). Presbyteries could not establish and adopt standards of behaviour for officers that were different from those set in the *Book of Order*, nor could the examination be based on standards other than those in the *Book of Order* (:5). The SPJC then criticised the way in which the presbytery handled procedural matters.

On 14 August 2007, the SPJC set the presbytery's Resolution (A) and Biblical Standards (B) aside as having no effect (PJC of Synod of the Trinity 2007b:7). The presbytery filed an appeal that was limited to the procedural and ancillary matters surrounding the adoption of the Resolution, and did not deal with the Biblical Standards (PC(USA) Minutes 2008:325). On 11 February 2008, the GAPJC unanimously did not sustain any of the three specifications of error (:326-327) and reaffirmed the ruling of the SPJC (:327).

The third part of specification of error three deserves some attention. The complainants argued that the SPJC incorrectly asserted "that the Adopting Act of 1729 established 'essential' as having a specific meaning"; the Act "does not. . .

[mention] the word 'essential' or any variant of it (PC(USA) Minutes 2008:327). The GAPJC, however, noted:

> Contrary to the Presbytery's assertions, the Adopting Act of the nineteenth of September, 1729 (Adopting Act), incorporates the term "necessary and essential" four times. Moreover, it provides instructive historical guidance for the application and interpretation of G-6.0108a and b (as to essentials). This Commission does note that later re-affirmations of the Adopting Act do not include the term "necessary and essential." The Church is therefore urged to use original sources of this and other historic documents and not to rely upon re-statements or paraphrases (ibid).

The GAPJC was correct, that "essential" was mentioned in the *Adopting Act of 1729*, but exactly what the essentials were was not specified, nor have they ever been specified in the entire history since 1729. The GAPJC, in the Bush ruling on that same day, specified that G-6.0106b was an essential.

Two concurring members pointed out that subscription was not removed from the church in 1925. It occurred in the form of verbal assent in the ordination vows, rather than written subscription. Evidence of this act was in G-14.0485: "The presbytery shall record the ordination and installation as a part of its official records along with the acceptance and subscription of the new minister to the obligations undertaken in the ordination vows" (PC(USA) Minutes 2008:328). Three members in the concurring opinion admonished the presbytery for the ineffective way of handling its Minutes (:329).

5.58.1 Summary

Twice on the same day, the 2008 GAPJC, in the Buescher and Washington, 1793 decisions, ruled presbyteries could not and should not create their own essential articles which candidates had to abide by. Yet, the 2008 GAPJC, in the Bush ruling, declared that G-6.0106b was an essential! The GAPJC would have done well to follow its own advice to its logical conclusion and not lift out one standard of ordination to be an essential.

The GAPJC confirmed the PJC of the Synod of the Trinity's ruling that the Resolution and Biblical Standards be declared null and void. The GAPJC lifted up

the *Adopting Act of 1729*, since it provided significant guidance for the application and interpretation of G-6.0108a and b as to essentials.

5.59 The GAPJC Ruling in *Spahr v. Presbyterian Church (U.S.A.) through the Presbytery of Redwoods*. Disciplinary Case 218-12 in 2008

On 28 February 2004, Rev. Dr. J A Spahr participated in a same-gender marriage in Canada. Charges were filed against her with the PJC of the Presbytery of the Redwoods (PPJC) that she had married two gays from her congregation, Downtown United in Rochester, New York (Kibler 2004b:1). However, there was insufficient evidence whether she had actually pronounced them married. Additionally, she had not signed the license, since she was not registered to perform weddings in Canada. The complaint was amended and she was charged with marrying two lesbian couples: one in August 2004 in New York, and one in May 2005 in California (Silverstein 2006a:2).

The PPJC held a trial in March 2006, and ruled 6-1 that Spahr was not guilty since she had acted within her "right conscience." Over the years, she had reported all her activities to the presbytery (Silverstein 2006b:1), yet nobody raised an issue over marriages she had performed (:4). The PPJC also found W-4.9001 was not intended as a directive to limit the circumstances under which marriage could be performed, or an expressed prohibition of same-gender marriage. They believed it was not an essential tenet of the church (PJC of the Synod of the Pacific 2007b:1); it was improper, but not forbidden (Van Marter 2006c).

The Presbytery of Redwoods (Presbytery) appealed its own PPJC ruling to the PJC of the Synod of the Pacific (SPJC). The SPJC requested the case be referred to the GAPJC, but the GAPJC denied it, since it would not allow Spahr one level of appellate review (PC(USA) Minutes 2008:331-332). The SPJC held a trial in August 2007. Three specifications of error were raised, and all were sustained. Specification three claimed the PPJC erred in holding that performing a same-gender marriage did not constitute an offense. The SPJC ruled the *Book of Order*, the 1991 Authoritative Interpretation, and the 2000 Benton ruling, all made it clear that ministers were not

allowed to perform same-gender marriages. Thus, despite Spahr acting with conscience and conviction, her actions were contrary to the Constitution and circumvented the standards of the church; therefore, she was subject to censure. The SPJC then referenced the 1983 Hambrick ruling, without stating which part of the case applied to this ruling (PJC of the Synod of the Pacific 2007b:2-3).

In the Hambrick ruling, Mark refused to ordain women, an expression of his conscience, but a standard of the church. The SPJC, thus, claimed that the prohibition on ministers performing same-gender marriages was an "essential or tenet," despite not using these words but "standard."

The SPJC reversed the decision of the PPJC, found Spahr guilty by a vote of 6-2, and imposed the censure of rebuke (PJC of the Synod of the Pacific 2007b:3). The censure could have been that Spahr should be removed from ministry. One commissioner dissented and pointed out that in the Benton ruling it stated that "ministers should not appropriate specific liturgical language. . ." and the 1991 Authoritative Interpretation stated "[i]t would not be proper. . ." (:4). The 2004 GAPJC, in *Session of Second Presbyterian Church of Tulsa v. Eastern Oklahoma Presbytery*, ruled that "the use of the phrase 'should not' in the Authoritative Interpretation is not prohibitive" (ibid).

Two members wrote a minority report stating that the presbytery and PPJC did not hold Spahr's actions to be contrary to the tenets of the Reformed faith. The appellant quoted the 1983 Hambrick ruling that one should separate belief and action when applying the concept of freedom of conscience. The minority believed Hambrick did not apply, since Spahr did not refuse to perform a mandated action of the Constitution, as was the case with the Hambrick ruling, where Mark refused to ordain women. Thus, since the presbytery and PPJC did not view same-gender ceremonies as essential tenets, Spahr was correct in arguing that the Historic Principles allowed her to speak and act from a conflicting point of view (PJC of the Synod of the Pacific 2007b:5).

This writer believes the majority of the SPJC ruled incorrectly, since the Hambrick ruling did not apply in this case. Their primary question, "does the Constitution. . .

prohibit a minister. . . from conducting same-sex marriages?" (PJC of the Synod of the Pacific 2007b:2) was flawed. The question should have been, in light of W-4.9001, if a minister performed a same-gender marriage, was it a marriage and could the minister be rebuked? Was such an action contrary to the Constitution? Also, the issue raised by the minority report and Spahr's attorney, Ms. S Taylor, is worth noting: W-4.9001 was a guideline, not an essential. Therefore, Spahr was not required to conform her practice and faith (Silverstein 2007g:2).

Spahr appealed the SPJC ruling to the GAPJC, and a much-anticipated trial was held in April 2008. The GAPJC, in its Preliminary Statement, explained the difference between a remedial and a disciplinary case. This was a disciplinary case in which the prosecuting team relied heavily on the 2000 Benton ruling, which was a remedial case, involving the policies of a session; therefore, it did not apply to this case (PC(USA) Minutes 2008:332).

Spahr specified seven errors by the SPJC. Specification one was that the SPJC erred in claiming the 1991 Authoritative Interpretation, 2000 Benton ruling, and W-4.9001 constituted a mandatory prohibition against a minister performing a same-gender marriage. It was sustained, in part, and answered by the reply to specification two that the SPJC erred by concluding Spahr had committed a disciplinary offense, which was sustained. Both the original and amended complaints accused Spahr of *performing* same-gender marriages. Neither W-4.9001 nor the 1991 Authoritative Interpretation prohibited a minister from performing a same-gender ceremony or union. Both parties acknowledged that the two ceremonies were not marriages as defined by the *Book of Order* (PC(USA) Minutes 2008:332).

Therefore:

> By the definition in W-4.9001, a same sex ceremony can never be a marriage. The SPJC found Spahr guilty of doing that which by definition cannot be done. One cannot characterize same sex ceremonies as marriages for the purpose of disciplining a minister of the Word and Sacrament and at the same time declare that such ceremonies are not marriages for legal or ecclesiastical purposes.
>
> The PPJC was correct in finding that by performing the two ceremonies at issue, Spahr did not commit an offense as charged. Therefore, the SPJC erred in determining that Spahr was guilty of violating W-4.9001 or the 1991 AI (PC(USA) Minutes 2008:332).
> Under W-4.9001, a same-sex ceremony is not and cannot be a marriage (:333).

The GAPJC found the charges against Spahr were based on W-4.9001, and according to that, she could not be guilty, since she could not perform a same-gender marriage per definition. This was a stunning conclusion to decades of complaints filed against ministers for performing same-gender unions, blessings, and marriages. However, the liturgy for same-gender and marriage ceremonies should be kept distinct and ministers shall not state, imply, or represent that a same-gender ceremony was a marriage (PC(USA) Minutes 2008:333).

The GAPJC honoured Spahr for her prophetic role, but reminded all that it carried consequences. The church, through Spahr, had reached out to the GLBT community, but had set behavioural standards for its officers to limit sexual practice. “The tension the church has created between sexual orientation and sexual practice has led to turmoil and dissension that will likely continue for some time” (PC(USA) Minutes 2008:333).

Most of the remaining specifications of error were not sustained, since Spahr had not committed a sanctionable offense (PC(USA) Minutes 2008:333-334). In specification six, Spahr claimed she had acted with her conscience and conviction, and the SPJC had incorrectly applied G-6.0108. The GAPJC was correct in stating that Spahr’s reliance on freedom of conscience must be exercised within bounds and without serious departure from these standards. Therefore, submission to the current standards might not always be comfortable, but it was not optional (:334).

The GAPJC reversed the decision of the SPJC, and removed the censure (PC(USA) Minutes 2008:334). Three majority members stated that since this decision was an Authoritative Interpretation of W-4.9001, any future noncompliance with the Authoritative Interpretation would be considered to be a disciplinable offense. They claimed Spahr’s conduct was under a previous Authoritative Interpretation (:335). Five minority commissioners both concurred and dissented on specifications of error 1 and 2. They believed the General Assembly should deal with the issue of same-gender ceremonies, not the GAPJC. They dissented from the majority, who in their opinion, refused to acknowledge that the Benton ruling was built on a foundation of sand. The majority converted the admonitions in Benton into prohibitions; the minority dissented in that regard (:336).

5.59.1 Summary

In a stunning and complicated ruling, the 2008 GAPJC found that, although Spahr had openly acknowledged that she had performed these two same-gender marriages, as well as several other unions, blessings, and marriages, she was not guilty. Spahr could not be guilty of doing something that W-4.9001, by definition, did not allow her to do. W-4.9001 only allowed ministers to perform a marriage between a man and a woman, not a same-gender marriage. This was also a frustrating ruling, stating that, since the denomination did not recognise same-gender marriages, whether liturgical or civil, they do not exist according to the Constitution of the PC(USA).

Spahr's attorney, Taylor, believed the language in the decision could be interpreted to preclude such marriages in the future (Spahr 2008). The Stated Clerk of the General Assembly, Kirkpatrick, responded that "[t]he PJC's decision reaffirms what our directory of [sic – for] worship says, that marriage is between a man and woman and that no officer should present a same-sex union as a marriage" (Silverstein & Van Marter 2008:1).

The Office of the Stated Clerk immediately issued an updated Advisory Opinion Note 7 regarding same-gender relationships. It quoted the Spahr case that ". . . officers of the PCUSA [sic] authorized to perform marriages shall not state, imply, or represent that a same sex ceremony is a marriage" (PC(USA) Constitutional Services 2008:1). Clearly, despite the ambiguity in the Spahr ruling, Note 7 stated that the Benton and Spahr rulings both prohibited same-gender marriages. However, in October 2008, Rev. Dr. J M Edwards was also acquitted by the PJC of the Pittsburgh Presbytery for performing what she called a same-gender marriage. The PPJC based its ruling on the Spahr case (see Chapter 5.59).

Conservative Presbyterians were angered by the Spahr ruling, since they believed Spahr was let off on a technicality (The Layman Online 2008a, Schlossberg 2008). In Schlossberg's (2008:1-2) criticism of the ruling, she claims:

> The Church has never understood Scripture to say anything other than that marriage is between a man and a woman. That teaching is expressed in both our Book of Confessions [sic - italicised] (5.246-.248; 6.131-.139; 7.130; 9.44; 9.47; 4.108-.109) and our Book of Order [sic - italicised].

The statement that "marriage is between *a* man and *a* woman" has been shown earlier in this study not to be true. *The Book of Confessions* speak about marriage between "one man and one woman," not "a man and a woman," which allows for divorce and remarriage. This language was only changed in 1952 and 1959, in the PCUSA and PCUS, respectively, and had been the guiding standard regarding divorce and remarriage for centuries.

Schlossberg (2008:2) criticises the GA PJC [sic] for blessing same-gender unions as "pastoral care." The Presbyterian Coalition, which she represented, was not merely satisfied with the fact that gays and lesbians could not be married, but saw ". . . danger in the idea that blessing such unions is 'pastoral care'" (ibid). The Presbyterian Rule of Love was absent in Schlossberg's arguments, replaced by the Rule of Faith (or Law), when she claims:

> The blessing of same-sex sexual unions in our time is a scandal to the Gospel, both theologically and pastorally. This is a case where ministers of [sic - the] Word and Sacrament ought not to bless what God does not bless (ibid).

Schlossberg, The Presbyterian Coalition, the PLC through its The Presbyterian Layman and The Layman Online, and others have yet to produce a single passage from Scripture which shows that same-gender unions are addressed in Scripture, and that God does not bless them. Yet, the clear teachings of Jesus regarding divorce and remarriage were ignored, and the definition of marriage in the Confessions was changed to accommodate a "scandal to the Gospel" in the 1950s, i.e. heterosexual divorce and remarriage.

On 16 June 2008, same-gender marriages became legal in California, and Spahr officiated at several marriages. She officiated at the civil same-gender marriage of her attorney, Taylor, on 20 June in California. Two men were married by Rev. D Gibson at a MLP dinner at the June 2008 General Assembly in California. Gibson had, in 1990, performed their same-gender marriage, and issued a license for the civil marriage at the latest ceremony (Pate 2008:1). This writer is aware of many civil same-gender marriages in California at which ministers have officiated, and officers have participated in. Thus far, the denomination has not ruled on the constitutionality of a legal civil same-gender marriage. The Presbytery of Boston will investigate the first such charge (see Chapter 5.66).

This writer expects a barrage of charges against countless ministers in California, who defied the Constitution's ban on performing either liturgical same-gender marriages or civil same-gender marriages from 16 June - 4 November 2008, as well as officers who are now civilly married as a same-gender couple. Same-gender marriages will become the next hotly debated issue that threatens to divide the peace, unity, and purity of the PC(USA). Given the history of the Presbyterian Church, the church will try to resolve the issue through polity in the absence of theological discussion.

Many questions are left unanswered by the Spahr ruling. Same-gender marriages in California only became legal in June, after the Spahr ruling. This writer found a single complaint in Massachusetts for performing a civil same-gender marriage. A charge has been filed against Rev. J Southard in Boston by the Investigative Committee and the PJC of the Presbytery of Boston will investigate the charge (see Chapter 5.66).

Since no precedent for legal civil same-gender marriages exists anywhere in the PC(USA), the question remains whether the law of the church trumps the law of the specific state, where ministers can legally officiate at same-gender marriages. Should a separation of the religious and civil marriage aspects performed by a minister occur? Should a minister separate the religious and civil marriage for both same-gender and heterosexual couples? Will a minister be guilty of performing a same-gender marriage if someone else performs the civil portion of exchanging of vows and issuing of the license, while the minister only performs the religious portion of the service?

Can the minister claim that he or she was merely performing a same-gender blessing in compliance with the Benton ruling? Or can a minister perform the civil portion of a same-gender marriage, and state that the PC(USA) does not recognise such a marriage; thus, it does exist but is not recognised by the PC(USA). Can the minister then perform the liturgical same-gender blessing, which the polity of the PC(USA) does allow? The Covenant Network (2008) argues that ministers should consider such procedures.

Even if one separates the civil and religious aspects, anyone can still file a complaint against any minister for performing a same-gender marriage or a same-gender blessing/union which they deem to be indistinguishable from a marriage ceremony, per the Benton and Spahr rulings. Unfortunately, since the GAPJC, in the Spahr, ruling left too many unanswered questions, Investigating Committees and PJCs will be dealing soon enough with the mass of complaints and possible charges stemming from the same-gender marriages that have been performed in California from June – November 2008.

5.60 The 218th General Assembly of the PC(USA) in 2008

Overtures to the 2008 General Assembly would centre on the 2005 *Peace, Unity, and Purity* Report and "scrupling" of G-6.0106b through the 2006 Authoritative Interpretation on G-6.0108, the deleting of G-6.0106b, and corrections to the translation of the Heidelberg Catechism of 1962.

5.60.1 Overture on Authoritative Interpretation of G-6.0108

Conservative presbyteries sent Overtures 05-01, 05-02, 05-04, to rescind the 2006 Authoritative Interpretation of G-6.0108 on Recommendation 5 of the 2005 *Peace, Unity, and Purity* Report (PC(USA) Minutes 2008:345-359). Overture 05-10 wanted to amend G-6.0108b (:374-376). Progressive presbyteries sent Overtures 05-05 and 05-12, requesting the General Assembly to approve an Authoritative Interpretation of G-6.0108 (:361-363, 379-381). This was in response to the 2008 GAPJC ruling in the Bush decision, which set aside the 2006 Authoritative Interpretation by the General Assembly, based on Recommendation 5 of the 2005 *Peace, Unity, and Purity* Report, declaring that scrupling of G-6.0106b was not permissible and allowing no departures from this ordination standard. The GAPJC ruling lifted G-6.0106b out as an essential of Reformed faith and polity. The purpose of the overture was not to repeal G-6.0106b, but to restore it as one of many standards to be applied in a case-by-case basis.

The pre-General Assembly battle over these overtures was immense. For conservatives, the Bush decision was a tremendous victory. They wanted this overture defeated in order for the 2006 Authoritative Interpretation, nullified by the GAPJC's ruling, to have no effect; thus, assuring G-6.0106b was enforced and no scruples were permitted on G-6.0106b.

One has to take note of a comment by Koster (2008b:1), who was running for Stated Clerk:

> Not trusting that the PJC decision reflects the will of God, an overture has been submitted . . . (2008b:1)

To insinuate that the 2006 Authoritative Interpretation, allowing partnered gay and lesbian candidates to declare a scruple regarding G-6.0106b, was not God's will, yet the GAPJC ruling in the Bush case was God's will, is pure hubris.

This writer would argue that when a General Assembly or GAPJC issues a decision, whether with a huge or narrow majority approval, we believe the decision is based on God's will, but it might not necessarily be God's will. The Historic Principles of Church Order under Church Powers warns:

> Now though it easily be admitted that all synods and councils may err, through the frailty inseparable from humanity . . . (G-1.0307 *Book of Order*).

All decisions are open to review. The 2008 GAPJC, in the Bush ruling, reviewed the 2006 Authoritative Interpretation, and Overture 05-12 would, in turn, ask that the Bush ruling be reviewed.

To ignore this contravenes the *Book of Order* and our Confessional Statements:

> Yet, the church, in obedience to Jesus Christ, is open to the reform of its standards of doctrine as well as of governance. The church affirms "Ecclesia reformata, semper reformanda," that is, "The church reformed, always reforming," according to the Word of God and the call of the Spirit (G-2.0200 *Book of Order*).

This writer witnessed this in the DRC in South Africa, which, in 1974, declared apartheid and separate worship of blacks and whites to be God's will, but reversed this decision in 1986, declaring apartheid a sin. By no means were these decisions unanimous. In 1974 and 1986, the minority who voted against the decision believed it was not God's will, yet they were juxtaposed in their view. Our view of God's will and how it plays out in our polity and governance should keep on reforming under the guidance of the Holy Spirit. This principle would be applied in the second

Authoritative Interpretation which was issued to revoke all 1978 and 1979 "definitive guidance" statements and reaffirmation thereof, decisions which the majority believed were God's will (see Chapter 5.60.2).

Koster (2008b:2) continues:

> If the General Assembly in San Jose approves the proposed AI, it will nullify the Pittsburgh Presbytery decision, abandoning the reasoned decision and application of the Constitution by its own Permanent Judicial Commission, and will substitute for it a decision made on the emotions of the moment and politics of the day.

How do eighteen GAPJC members, several who are vocally outspoken on either anti-ordination or pro-ordination of partnered gay and lesbian candidates, not bring in their emotions and politics when issuing a ruling? How are they more objective, rational, less emotional, and less political than the elected commissioners from each of the 173 presbyteries that represent nearly 11,000 congregations?

Koster undercuts the representative system, however fallible it may be, which governs this denomination. He also conveniently forgets that it is only since 1972 that a decision by the GAPJC is not reviewable by the General Assembly, which has always been the case in the entire history of our denomination.

Regarding the John Knox Presbytery's Overture 05-12, requesting a new Authoritative Interpretation of G-6.0108, the ACC reminded the Assembly of the advice the ACC gave regarding G-6.0106b in 2006 (PC(USA) Minutes 2008:381-382, see PC(USA) Minutes 2006:529). The ACC suggested that a new Authoritative Interpretation be supplementary, rather than a replacement of the 2006 Authoritative Interpretation of G-6.0108. The ACSWP also criticised the GAPJC for its Bush ruling as being faulty in singling out a single provision as essential (PC(USA) Minutes 2008:382-383).

The ACCOM dealt with the overtures and approved Overture 05-12 by a vote of 43-15. The COMC changed the wording of the overture to reflect the ACC advice and the General Assembly approved Overture 05-12 (PC(USA) Minutes 2008:380) by a 374-325 vote (Scanlon 2008i:1):

> The 218th General Assembly (2008) affirms the authoritative interpretation of G-6.0108 approved by the 217th General Assembly (2006). Further, the 218th General Assembly (2008), pursuant to G-13.0112, interprets the requirements of

> G-6.0108 to apply equally to all ordination standards of the Presbyterian Church (U.S.A.). Section G-6.0108 requires examining bodies to give prayerful and careful consideration, on an individual, case-by-case basis, to any departure from an ordination standard in matters of belief or practice that a candidate may declare during examination. However, the examining body is not required to accept a departure from standards, and cannot excuse a candidate's inability to perform the constitutional functions unique to his or her office (such as administration of the sacraments) (PC(USA) Minutes 2008:380).

The 2008 Authoritative Interpretation of G-6.0108 stated that departures or "scruples" on "belief or practice" were permissible, thus, replacing "faith and polity" of the 2006 Authoritative Interpretation, i.e. Recommendation 5 of the 2005 *Peace, Unity, and Purity* Report. The 2008 GAPJC, in the Bush ruling, found a loophole in the 2006 Authoritative Interpretation: practice or behaviour was not specified in the Authoritative Interpretation, but only in the rationale portion.

Thus, this 2008 Authoritative Interpretation of G-6.0108 nullified the 2008 Bush ruling, and reaffirmed the intent of the 2006 Authoritative Interpretation that Section G-6.0108 put "'faith and polity' -belief and behavior- on equal footing, as they were in 1729, when scruples were permitted in matters of 'doctrine, discipline, and government'" (PC(USA) Minutes 2006:516). Most importantly, the 2008 Authoritative Interpretation reversed the 2008 GAPJC ruling in the Bush decision that G-6.0106b was an essential and "a mandatory standard that cannot be waived" or scrupled. The 2008 Authoritative Interpretation stated that G-6.0108 applied equally to all ordination standards, including G-6.0106b, and not just specifically to G-6.0106b, as the GAPJC viewed it in the Bush decision. This was the first time in the history of Authoritative Interpretations that the General Assembly and the GAPJC were in disagreement about ordination standards.

However, Koster (2008c), the Stated Clerk of Detroit Presbytery and unsuccessful candidate for the position of Stated Clerk of the 2008 General Assembly, believes that since the 2008 Authoritative Interpretation did not cancel out the 2006 Authoritative Interpretation, but affirmed it, it left us with two interpretations of the same provisions. The 2006 Authoritative Interpretation declared a specific rule - an ordaining body must comply with the Constitution when it ordains; while the 2008 Authoritative Interpretation declared a general principle - it allowed ordaining bodies to permit the ordination and installation of those who have declared they would not

comply with the provisions of G-6.0106b. Thus, the 2006 Authoritative Interpretation took priority over the 2008 Authoritative Interpretation, based on Koster's read of Robert's Rules of Order Newly Revised (1990:571):

> A general statement or rule is always of less authority than a specific statement or rule and yields to it.

Therefore, when G-6.0106b was at issue, the 2006 Authoritative Interpretation should apply. Koster (2008c) ultimately argues that the GAPJC needs to decide whether the General Assembly has the power to authorise a violation of the Constitution.

Again, this shows that decisions made by General Assemblies are not always crystal clear, and uncertainty still exists on how decisions should be interpreted, even by those who specialise in the polity of the denomination! (cf. Koster 2008c, Nave 2008b, Parsons in PC(USA) Constitutional Services 2008b).

The 2008 Authoritative Interpretation of G-6.0108 reaffirmed Recommendation 5 of the 2005 *Peace, Unity, and Purity* Report, that candidates and ministers were able to declare a scruple regarding G-6.0106b, but the ordaining body had to decide whether it was an essential, and if it prohibited the person from being ordained and holding office. It also clarified that all ordination standards were treated equally and might be scrupled, since G-6.0108 "apply equally to all ordination standards."

The sentence in the 2008 Authoritative Interpretation, ". . . the examining body . . . cannot excuse a candidate's inability to perform the constitutional functions unique to his or her office . . ." needs clarification. This meant that a candidate for the office of minister of the Word and Sacrament could not refuse to ordain and/or install someone the session or presbytery had found fit. Such action would not be in conformity with Presbyterian polity and they might not be ordained and/or installed. Therefore, scrupling not only applied to gay and lesbian candidates declaring scruples, but also persons declaring scruples that they would not accept the scruples of gay and lesbian candidates.

Conservatives have been vocally unhappy about the 2008 Authoritative Interpretation of G-6.0108, since they sent several overtures to have the 2005 *Peace, Unity, and*

Purity Report declared null and void. The 2008 Authoritative Interpretation of G-6.0108 put the focus on local ordination standards, relying on historic Presbyterian principles, while the conservatives wanted national standards; the presbyteries should vote on the issue (see Scanlon 2008g:1). The conservatives want the PC(USA) free of all partnered gay and lesbian Christians unrepentant in their view, and the only way to accomplish this would be a national standard; therefore, their vehement opposition to local standards.

The new Stated Clerk, Rev. G Parsons, through the Constitutional Services, issued Advisory Opinion 22, confirming that the 2008 GAPJC ruling in the Bush decision was modified by the 2008 Authoritative Interpretation on G-6.0108; scrupling was again allowed. However, it left in place the prohibition in the Bush ruling:

> Restatements of the *Book of Order*, in whatever form they are adopted, are themselves an obstruction to the same standard of constitutional governance no less than attempts to depart from mandatory provisions (PC(USA) Constitutional Services 2008b:2).

5.60.2 Overtures on Deleting and/or Amending G-6.0106b and Issuing a New Authoritative Interpretation

Conservative presbyteries sent Overtures 05-04 and 05-07 to uphold G-6.0106b by adding new language, rewording it or rescinding the 2006 Authoritative Interpretation of G-6.0108 (PC(USA) Minutes 2008:358-359, 368-369). Progressive presbyteries sent Overtures 05-06, 05-08, 05-09, 05-11, and 05-13 to delete and/or amend G-6.0106b and issue a new Authoritative Interpretation (:364-365, 370-384).

The Boston Presbytery sent Overture 05-09, requesting that G-6.0106b be deleted and replaced with a new paragraph and a new Authoritative Interpretation be issued (PC(USA) Minutes 2008:371-373). The ACC advised that removal of G-6.0106b or new language would not be sufficient, and a new Authoritative Interpretation would be needed to amend or rescind all prior Authoritative Interpretations regarding the eligibility of gay and lesbian persons to hold office. This overture would accomplish both (:373-374). All ordination overtures were sent to the COMC, and they approved Overture 05-09 without change by a 41-11 vote. The General Assembly approved the

overture (:43) and, by a 380-325 or 54-46% vote, sent Amendment 08-B to the 173 presbyteries to ratify (Scanlon 2008i:1).

The whole G-6.0106b was to be deleted and replaced with new wording, and a sentence was to be added to G-14.0240 and G-14.0450 regarding "readiness to assent to the constitutional questions for ordination and installation." For the sake of comparison, the current and the proposed versions of G-6.0106b are shown below:

Current G-6.0106b	Amendment 08-B
Those who are called to office in the church are to lead a life	Those who are called to ordained service in the church,
	by their assent to the constitutional questions for ordination and installation (W-4.4003),
in obedience to Scripture	pledge themselves to live lives obedient to Jesus Christ the Head of the Church,
	striving to follow where he leads through the witness of the Scriptures,
and in conformity to the historic confessional standards of the church.	and to understand the Scriptures through the instruction of the Confessions.
Among these standards is the requirement to live either in fidelity within the covenant of marriage between a man and a woman (W-4.9001), or chastity in singleness.	In so doing, they declare their fidelity to the standards of the Church.
Persons refusing to repent of any self-acknowledged practice which the confessions call sin shall not be ordained and/or installed as deacons, elders, or ministers of the Word and Sacrament (G-6.0106b *Book of Order*).	Each governing body charged with examination for ordination and/or installation (G-14.0240 and G-14.0450) establishes the candidate's sincere efforts to adhere to these standards (PC(USA) Minutes 2008:272).

The overture rationale asserted the new wording more accurately affirmed Jesus Christ was the Head of the church, the Scriptures were subordinate to the authority of Jesus Christ, and the Confessions were subordinate to the authority of Jesus Christ and the witness of Scripture. "This fundamental hierarchy of authority is accurately and eloquently reflected in the first three of the constitutional questions, the assent to which is required of each candidate for ordination and/or installation" (PC(USA) Minutes 2008:373). The current G-6.0106b substituted obedience to Jesus Christ with something foreign to Reformed understanding; namely, obedience to Scripture and conformity to the Confessions.

However, Presbyterian Renewal leaders, representing thirteen conservative ministries, strongly disagreed and argued that the new vague wording separated Christ's will from Scripture and loosely referenced Christ, but this "Christ" is a stranger to Scripture and the "will" of this Stranger Christ would turn out to be each person's will, rather than the immutable will of Christ revealed in Scripture (Meredith *et al* 2008:3). Schlossberg (in Silverstein 2008f:3) states that the intent was to separate Jesus Christ from Scripture, so that what Scripture said could be discounted. These are absurd arguments, since Christ was not even mentioned in the current language of G-6.0106b! The new wording, however, was consistent with the constitutional questions that are asked of all candidates.

The new wording also did not single out a single sexual conduct, but focused on obedient lives and all the ordination standards. In the discernment process, the local governing body, session for deacons and elders and presbytery for ministers, discern whether the candidates meet and adhere to these standards. In practice, it would mean some candidates would not meet the standards and would not be ordained and/or installed.

Tony (2008:9) argues the new language establishes no definite constitutional ordination requirement and leaves unspoken what is obedience to Jesus Christ on this matter, i.e. "homosexual relations." "This is precisely the place where proponents of the replacement would support the radical idea that obedience to Jesus Christ is at variance with obedience to Scripture" (ibid). That is exactly the point! Christ in Presbyterian theology is the Word of God while Scripture is the word of God (9.27 Confession of 1967). Christ, the eternal and living Word of God, always supersedes the written word of God, which is culture-bound.

A few examples should suffice to disprove Tony's argument. Christ taught against divorce, yet even conservative Presbyterians allow for divorce and remarriage. Scripture does not disapprove of slavery and Jesus did not speak out against it, yet we believe it is a practice to be abhorred. Tony and others, when speaking about Jesus Christ, merely refer to the human lifetime of Christ in his own limited cultural context, and not to the immanent Christ, who is present in every time and place through the Holy Spirit, and who gives new understanding to believers, such as

allowing for the ordination of women, the right of children to participate in Communion, etc.

Shanholtzer (2008:11) asks, in the absence of the incarnate Jesus, how can people know the mind of Christ today? She claims it is in Scripture alone; it is our sole authority. Thus, in her view, the new wording was a shift away from the authority of Scripture. Again, despite the fact that Shanholtzer quoted the Confessions at length to prove her point that obedience to Scripture was Reformed, the current wording was unreformed and not found in our Confessions.

Amendment 08-B has no reference to sexual practice, self-acknowledgment of sin or repentance. The most obviously absent word is “shall,” which Schlossberg falsely claims left us with no ordination requirement (in Silverstein 2008f:3). Tony (2008:10) states that sinners can and are regularly ordained. It is true; therefore, the GAPJC and General Assemblies have pointed out that all who are ordained, not just gays and lesbians, are sinners.

However, Tony (2008:10) stresses that the last sentence leaves much to be desired. The current strong prohibition is replaced by “[e]ach governing body . . . establishes the candidate’s sincere efforts to adhere to these standards.” Tony suggests that since there is no method to judge the candidate’s sincerity, a clause should have been added before this sentence that “it is the responsibility of the governing body. . .” This writer believes that the conservatives will specifically press this issue when presbyteries vote on this amendment, to convince centrists to keep the current wording. This writer understands the new sentence to mean that, theoretically, no session or presbytery can ask a candidate about their sexual orientation and/or practice, since it will no longer be seen as sinful, or, according to the 2008 Authoritative Interpretation, as an essential.

In the second part of the same motion, the 2008 General Assembly adopted a new Authoritative Interpretation on ordination standards, which stated:

> Interpretive statements concerning ordained service of homosexual church members by the 190th General Assembly (1978) of the United Presbyterian Church in the United States of America, and the 119th General Assembly (1979)

> of the Presbyterian Church in the United States and all subsequent affirmations thereof, have no further force or effect (PC(USA) Minutes 2008:373).

The new Authoritative Interpretation specifically referred to General Assembly and/or GAPJC statements and Authoritative Interpretations related to sexual standards from 1978 and 1979 onwards, predating G-6.0106b, which was added into the *Book of Order* in 1997. Advisory Opinion Note 22, issued after the 2008 General Assembly, explained that the following wording of 1978 and 1979 of the predecessor churches was no longer in effect:

> 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 (Presbyterian Church in the United States, 1979, 201; United Presbyterian Church in the United States of America, 1978, 261) (PC(USA) Constitutional Services 2008b:1).

Thus, the 1978 and 1979 "definitive guidance" statements that homosexual practice was not compatible with ordained service in the denomination was negated. Similarly, the 1993 General Assembly's affirmation that the 1978 and 1979 "definitive guidance" currently carried the weight of Authoritative Interpretation was also negated (PC(USA) Constitutional Services 2008b:1). Additionally, four GAPJC decisions, which were Authoritative Interpretations on ordination standards, were no longer in effect, i.e. Blasdell in 1985, LeTourneau in 1992, Sallade in 1992, and Hope in 1993 (:1-2). These four Authoritative Interpretations were built on the 1978 and 1979 "definitive guidance" statements and the 1993 Authoritative Interpretation by the General Assembly.

The Advisory Opinion did not address the issue of what the force was of the rest of the Recommendations in the 1978 and 1979 "definitive guidance." This writer, along with others (see Nave 2008b:1), believes that the new Authoritative Interpretation only nullified statements regarding ordained service, but other inclusive statements still apply. Similarly, inclusive statements in the various GAPJC rulings should still apply, since only subsequent affirmations of prohibitive statements were negated (cf. PC(USA) Constitutional Services 2008b:1). Logically, all inclusive statements issued after 1997 by the General Assembly and GAPJC should still apply (cf. Nave 2008b:1).

GAPJC decisions which were Authoritative Interpretations built on G-6.0106b and issued after 1997, that were still in effect were: Wier I in 1998, Sheldon in 2000, Benton in 2000, Londonderry in 2000, Wier II in 2002, San Joaquin in 2002, McKittrick in 2003, and Stewart in 2007 (PC(USA) Constitutional Services 2008a:2). Thus, Cahn *et al* (2008:20) and Nave's (2008b:1) claims that all decisions, including those after 1997, were nullified, were incorrect. Both the 2008 Authoritative Interpretation and Advisory Opinion contradict their interpretation.

Haberer (2008a:1) points out that the elimination of this interpretive language did not overturn the ordination prohibition; it would take effect only if the proposed amendment of G-6.0106b was ratified by the presbyteries. But the new Authoritative Interpretation provided much more specificity to the constitutional policy.

It is vital in this debate to note that the two new 2008 Authoritative Interpretations combined will have the effect that some ordaining bodies will approve partnered gay and lesbian, and unmarried partnered heterosexual Christians to be ordained and/or installed as officers, despite G-6.0106b. This will be the third time since G-6.0106b was approved by both the 1996 General Assembly and the majority of presbyteries in 1997 that a proposal to delete it will be sent back to the presbyteries. In 1997 and 2001, the presbyteries rejected the amendments by a large margin.

It is unfortunate that The Presbyterian Layman continues to deliberately misrepresent and misinterpret the ongoing debate. Adams (2008c:1) claims the 2008 General Assembly created a local option. This study has shown such a statement to be untrue, since the 2006 General Assembly, in adopting the 2005 *Peace, Unity, and Purity* Report, reaffirmed the practice of scrupling and local ordination option which has existed since 1729. Adams also falsely states that ". . . the General Assembly declared that there are no 'essential' standards, they are now able to ordain homosexuals, adulterers, fornicators and people who have multiple sex partners" (ibid). The 2006 and 2008 General Assemblies did not declare G-6.0106b was an essential and necessary article of Reformed faith; the 2008 GAPJC, in the 2008 Bush ruling, erroneously elevated it to an essential. Thus, Adams' claim that the General Assembly somehow took the essential standards away is false.

The 2008 Authoritative Interpretation and proposed amendment of G-6.0106b did not mean there were no longer any standards, and fornicators, adulterers, and those with multiple sex partners now had an opening to be ordained and/or installed. Also, any session or presbytery has been free to ordain a gay or lesbian since 1978, as long as they were not sexually active; and since 1997, the yardstick through G-6.0106b has been self-acknowledged practice. The ACC and General Assembly have repeatedly stated that sexual practice outside of marriage, not sexual orientation, bars one from office.

Adams' (2008c:1) bias for denomination-wide standards shows in his argument that if an unconstitutional ordination of a minister has taken place in one presbytery, and the minister received a call to another presbytery:

> . . . it would not have the right to rule that candidate ineligible on the basis of his or her behavior. To the contrary, the local presbytery would be *required* [original italics] to recognize the candidate as a duly ordained officer because the first presbytery carried out an 'act of the whole church.'

This statement is simply untrue and, again, a deliberate misrepresentation of the standards of the PC(USA). No congregation, session or presbytery is required to accept anyone's ordination. The Pastor-, Associate Pastor- or Interim Pastor Nominating Committees of congregations issue calls to ministers. A Pastor/Head of Staff and Associate Pastor are voted on by the congregation, and have to be approved by the majority of both the COM of the presbytery and the presbytery. An Interim Pastor is voted on by the session and has to be approved by the majority of the COM of the presbytery. A minister transferring into a presbytery under a validated ministry is approved by the COM. There is absolutely no requirement of any congregation or presbytery to accept the ordination of a partnered gay or lesbian minister. The congregation, COM, and presbytery have the fullest right not to approve the call.

Thus, even if one is ordained for the whole church, one is not necessarily eligible for service in the whole church. That is the truth of the matter which the conservative PLC through its The Presbyterian Layman and The Layman Online, Presbyterian Coalition, Presbyterians for Renewal, and others refuse to acknowledge, and about which they continue to sow discord.

Adams (2008c:1) argues that the same argument is true for deacons and elders who move to a new presbytery. Even if they are not elected to serve, they are still eligible to perform the constitutional duties that accompany those offices. Adams states it as if it is categorically true that such an elder would serve as a representative at presbytery or would be able to preach. His argument would only be true if the elder was elected by the session to be a representative or was invited to preach. Also, the Nominating Committee of the congregation, which elects deacons and elders, would, in all likelihood, find such a candidate not eligible to be installed to office. Adams and others are trying to put the "homosexual fear" into conservatives, as if progressive sessions and presbyteries are forcing conservative churches to accept ordained gay and lesbian officers in their congregations and presbyteries.

Tony & Fish (2008a:1), from the Presbyterian Coalition, make similar false claims. They believe the "grandfather" clause from the 1978 and 1979 "definitive guidance" was also now removed. This is not true, since the intent of the overture was to remove negative prohibitions only. Contrary to Tony & Fish's (2008b:1) view, the 2008 Bush ruling still stands; the negative prohibition against scrupling has been removed. They are wrong in stating that:

> Advisory Opinion #22 pointedly fails to explain the meaning of the new language. The omission leaves the church without any guidance whether the new language would or would not permit the ordination of persons in unrepentant sexual relationships who are not married (W-4.9001) (Tony & Fish 2008c:1).

5.60.3 Overture on Revising the Heidelberg Catechism

Overtures 13-04, 13-05, and 13-06 requested that the language of the 1962 translation of the Heidelberg Catechism, included in *The Book of Confessions* since 1967, be corrected (PC(USA) Minutes 2008:1255-1262). The Assembly Committee on Theological Issues and Institutions voted 33-26 to approve Overture 13-06 from the Newark Presbytery to make five changes (:19). The biggest issue was Heidelberg Catechism Question and Answer 87, which contains the phrase "homosexual perversion." This wording was added by the two translators in 1962, and has been used by conservatives in their defence of G-6.0106b that the Confessions speak out

against homosexuality (see Chapter 5.24.6 for a full discussion). Previous attempts in 1997 and 1998 to correct this error were not approved by the General Assembly.

The General Assembly, by a 436-280 vote, approved a four-year retranslation of the text, with specific focus on the five passages raised in the overture (PC(USA) Minutes 2008:19). The Moderator appointed a committee to study the changes and propose changes to the 2010 General Assembly. If the majority of those commissioners approve the changes, then it will be sent to the presbyteries to ratify it by a two-thirds majority. Once ratified, the majority of commissioners at the 2012 General Assembly will have to approve it for the changes to become part of *The Book of Confessions* (PC(USA) Constitutional Services 2008b:3).

The words ". . . no fornicator or idolater, none which are guilty either of adultery or homosexual perversion . . ." are to be replaced with ". . . no unchaste person, idolater, adulterer . . ." The word "unchaste" raises the question about what exactly is meant by it? In the Heidelberg Catechism, chaste lifestyle is required of both married and single persons, without reference to sexual activity; today's meaning of chaste and chastity has the connotation of single persons who are not sexually active. It is unfortunate that a better word than "unchaste" was not used to more correctly convey what is meant.

5.60.4 Overture on Amending W-4.9000 Regarding the Definition of Marriage

The Presbytery of Baltimore sent Overture 04-08, requesting W-4.9000 be amended and the definition of marriage as between a man and a woman be redefined as between two people, stating that "[m]arriage is a covenant between two people and according to the laws of the state also constitutes a civil contract" (PC(USA) Minutes 2008:252). This would recognise that in June 2008, in two states, California and Massachusetts, gays and lesbians could legally be married, but that Presbyterian ministers were prohibited from performing these civil same-gender ceremonies. The Assembly Committee on Church Polity voted 38-20 not to approve the overture. The General Assembly voted not to approve it either and to keep the current definition of

marriage as a civil contract between a man and a woman only (:49). The vote was 540-161 (Tuck 2008:1).

This rejection of the redefinition of marriage is relevant, given the various trials against ministers who have conducted same-gender liturgical marriages, but which were not legal civil same-gender marriages. Gays and lesbians will soon be able to legally marry in six states. Several Presbyterian ministers, including Spahr, have performed civil same-gender marriages in California. This writer predicts that countless complaints will be filed with the PJCs of presbyteries before the General Assembly can deal with this issue in 2010. This writer also predicts that the same-gender marriage issue will wholly overshadow the ordination and/or installation issue of G-6.0106b. Many sessions have given permission that same-gender marriages may be performed on site, their ministers may perform them on or off site, and they will recognise same-gender marriages.

One must take note that ministers serving congregations are required to report all marriages they performed to their session, which, in turn, report to the presbytery. Thus, a paper trail exists of any minister who performed a civil same-gender marriage, and it leaves them open to disciplinary complaints and action. However, not all presbyteries require and/or enforce minister members-at-large and honourably retired ministers to report marriages they performed. Thus, this writer is aware of ministers who performed same-gender marriages from June - November 2008 in California, and did not report them to their presbytery.

5.60.5 Overture on Equal Rights of Same-Gender Partners

Overture 04-13 from the Presbytery of Denver requested the General Assembly to: 1) Renew and strengthen the PC(USA)'s commitment to equal protection for same-gender partners and the 2004 General Assembly's affirmation of the right of same-gender persons to civil unions; 2) Urge state legislatures and the federal government to apply the principle of equal protection to same-gender couples and their children; 3) Appoint a Special Committee to study the following and report to the 2010

General Assembly, including any polity recommendations, regarding: a. The history of the laws governing marriage and civil union, including current policy debates; b. How the theology and practice of marriage have developed in the Reformed and broader Christian tradition; c. The relationship between civil union and Christian marriage; d. The effects of current laws on same-gender partners and their children; e. The place of covenanted same-gender partnerships in the Christian community. A Part 4 was added: The overture advocated for equal rights and did not seek to redefine the nature of Christian marriage (PC(USA) Minutes 2008:258-259). The General Assembly approved the overture (:49) by a 516-151 vote (Tuck 2008:1).

The study by the Special Committee of Civil Union and Christian Marriage will be all the more relevant, given that civil same-gender marriages will soon be legal in six states, and several others are contemplating its legality. The conservative PLC through it's The Presbyterian Layman and The Layman Online complained that this was just another guise to open the door for liberals to persuade the denomination to sanction same-gender marriages (The Layman Online 2008c:1). However, by ignoring the issue and claiming that all conversation should stop, that congregations, sessions, presbyteries, and General Assemblies should not discuss the issue, was unreformed. Presbyterians have always discussed and addressed societal issues, even if it took decades.

5.60.6 Summary

The 2008 General Assembly issued two new Authoritative Interpretations and, for the third time, sent an amendment to G-6.0106b - Amendment 08-B - to the presbyteries. First, the 2008 Authoritative Interpretation on G-6.0108b reaffirmed the 2006 Authoritative Interpretation of Recommendation 5 of the *Peace, Unity, and Purity* Report, but changed the wording "faith and polity" in the 2006 Authoritative Interpretation to "belief or practice." Thus, scrupling of G-6.0106b was again permissible, and the GAPJC ruling in the 2008 Bush decision was modified: G-6.0106b was not an essential or a mandatory standard which could not be waived or scrupled. Ordaining and installing bodies have the right to make determinations about the essential character of any part of the Constitution, including G-6.0106b.

Thus, a partnered gay or lesbian Christian can again, from June 2008, declare a scruple regarding the ordination standard in G-6.0106b. Sessions and presbyteries then have to use a process of discernment for each particular case whether to ordain and/or install the individual to office under a scruple. This will apply whether Amendment 08-B passes or not, since the Authoritative Interpretation was not built on its passing. This writer presumes that it also would apply to inquirers advancing to candidacy and candidates advancing to ready to receive a call status. They would declare a scruple to the CPM, and the presbytery would have to vote on each individual case.

Second, the General Assembly sent Amendment 08-B, to delete and amend G-6.0106b, to the presbyteries:

> Those who are called to ordained service in the church, by their assent to the constitutional questions for ordination and installation (W-4.4003), pledge themselves to live lives obedient to Jesus Christ the Head of the Church, striving to follow where he leads through the witness of the Scriptures, and to understand the Scriptures through the instruction of the Confessions. In so doing, they declare their fidelity to the standards of the Church. Each governing body charged with examination for ordination and/or installation (G-14.0240 and G-14.0450) establishes the candidate's sincere efforts to adhere to these standards (PC(USA) Minutes 2008:272).

Schlossberg and Andrews, representing the Presbyterian Coalition, show the level of intolerance and vilification towards those who would vote to remove and amend G-6.0106b:

> We will pray for and minister to the end that our erring brothers and sisters will be led to repentance and reconciliation that is at the very center of the gospel (Silverstein 2008f:3).
> The 218th General Assembly "was an assembly that had left its faith behind. . . making it functionally post-Christian" (Dunigan 2008).

In the build-up to the vote, two *Peace, Unity, and Purity* Report members asked presbyteries to vote "no" (Loudon 2008) or not to take a vote or action (ibid, Wheeler 2008:3), which in effect is a "no" vote, since it detracts from the 87 majority votes needed to ratify Amendment 08-B. This was not constructive advice. Presbyterians are obligated to vote, whether "yes" or "no," and not to give an indecisive message. Wheeler (:2) is correct that whether the vote is "yes" or "no," the church needs a theological consensus about norms for sexual behaviour. The church needs to use its biblical, theological, and confessional traditions to re-examine the vocation of

partnered gay and lesbian Christians, and the moral status of same-gender relationships.

It is this writer's contention that amendments to the *Book of Order* and *The Book of Confessions* do not accomplish the above, or bring about meaningful change. Rather, using only polity creates two opposing camps which shape the process to further their causes, and further polarises the denomination. In May 2009 the final vote on Amendment 08-B was 78-95, with 1 no action; thus, it failed. However, 34 presbyteries which voted "no" in 2001 to delete G-6.0106b voted "yes" to delete and amend G-6.0106b in 2009. This is a significant change in attitudes, but also might be the result of higher voter turnout by progressives and/or lower voter turnout by conservatives in certain presbyteries since many have left for the EPC. Challenges to either reinsert it or delete it will continue, for the foreseeable future, in the absence of a broad theological consensus regarding same-gender relationships.

Various scholars disagreed on what would occur if G-6.0106b is deleted and amended. Rogers, a PC(USA) polity professor, in a private conversation with this writer, shared that there would be no constitutional bar for partnered gays and lesbians to be ordained, and they would not have to declare any scruple, since it would no longer be required. Wheeler (2008:1), TTF Report member, however, believes G-6.0106a would be used to deny the ordination and/or installation of partnered gays and lesbians on the premise that "[t]heir manner of life should be a demonstration of the Christian gospel in the church and the world" (G-6.0106a). G-6.0106a might also be used as the basis for disciplinary charges against those whose partnered status was not known at the time of ordination and installation (ibid), i.e. they did not declare a scruple since it was not required.

This writer believes that conservatives will focus on G-6.0106a, which states, in part: "They must have the approval of God's people and the concurring judgment of a governing body of the church." They will also claim portions of the Confessions to assert that same-gender relationships are unacceptable. In all likelihood, stay of enforcements against ordinations or installations will be filed with Presbytery and Synod PJCs. Edwards (2008:1) believes G-6.0106a, in the absence of G-6.0106b, will be used to question candidates on their sexual practice.

Third, the General Assembly, besides approving an amendment to G-6.0106b to send to the presbyteries to ratify, simultaneously issued a new Authoritative Interpretation that was in effect, even if Amendment 08-B was not approved. The Authoritative Interpretation revoked all prior interpretative statements up to the inclusion of G-6.0106b in 1997; therefore, the 1978 and 1979 "definitive guidance" statements, and 1993 statement that "definitive guidance" had become Authoritative Interpretation, were no longer in effect. GAPJC decisions on ordination based on the statements before 1997 were no longer in effect, while those based on G-6.0106b after 1997 were in effect.

The General Assembly, after many years of overtures and debate, approved a retranslation of the 1962 Heidelberg Catechism. The most important change was to delete the wording "homosexual perversion" in Answer 87. All changes still have to be approved by the 2010 General Assembly, two-thirds of the presbyteries, and by the 2012 General Assembly.

This writer's spouse attended the 2008 General Assembly, and she reported that the conservatives in committees and in plenary on the floor realised that it was only a matter of time before G-6.0106b was deleted and/or amended. They are now moving their sights to same-gender marriages. Rev. S Fisher served as commissioner on the 2008 ACCOM. She reported that the conservatives on the ACCOM realised they were in the minority, and told the majority to choose which overture on G-6.0106b they wanted to have approved and sent to the General Assembly floor. When it came to the overtures on same-gender marriages, however, they fought "tooth and nail" in the ACCOM and on the General Assembly floor not to amend W-4.9001.

One can state with certainty that overtures to amend W-4.9000 will come before the 2010 General Assembly. Until then, this writer expects the GAPJC, in the interim, not to rule differently than what the Constitution currently states and prohibits. While complaints against ministers might still be filed for performing same-gender blessings and calling them marriages, and against sessions for allowing their buildings to be used, it will be wholly overshadowed by actions in Connecticut, Iowa, Maine, Massachusetts, New Hampshire and Vermont: ministers officiating and attending

civil same-gender marriages, sessions making their buildings available, and officers entering into same-gender marriages. These complaints and possible charges, and appeals to higher PJCs, will tie up the ecclesiastical courts for years, and will be highly publicised in both the denominational and secular media. The end result will be further polarisation of the fragile unity of the denomination.

5.61 The PJC of Pittsburgh Presbytery in *The Presbyterian Church (U.S.A.) through Pittsburgh Presbytery v. Edwards*. Disciplinary Case 2008-1 in 2008.

Rev. Dr. J Edwards of the conservative Pittsburgh Presbytery performed a same-gender union, which she described as a marriage, for two lesbian women on 25 June 2005. The couple then legally married in Canada (Silverstein 2006c:1). Complaints by clergy in the presbytery were filed against Edwards (:3). The presbytery appointed a Special Investigative Committee to investigate the complaints. It reported the names of the Investigative Committee on 8 September 2005 and filed charges with the PJC of the Presbytery of Pittsburgh (PPJC) on 12 September 2006. Edwards was accused of knowingly and wilfully performing a same-gender marriage ceremony, which was contrary to the Constitution, and misstating the authority by which the ceremony was performed (PJC of the Presbytery of Pittsburgh 2008b:2).

However, in November 2006, the PPJC, by a 8-0 vote, dismissed the charges, stating that the statue of limitations had expired. Charges had to be filed within one year after the Investigating Committee began meeting on the case, which was September 2005 (Silverstein 2006h:1).

Thirteen complainants filed a new complaint against Edwards in March 2007, claiming the same-gender marriage ceremony of two women was “heretical and apostate” in that it was “contrary to the Word of God and the Confessions by expressing Buddhist doctrine anathema to the Christian faith” (Jensen 2007:2-3). The presbytery appointed a new Investigating Committee for the new allegations. Edwards filed an appeal, challenging the investigative review by the Investigative Committee. The PPJC reviewed the petition, and allowed the Investigating

Committee to continue (PJC of the Presbytery of Pittsburgh 2008b:2). Additionally, they found that it was within the three-year time period after the alleged offense (:1)

The Investigating Committee of the Pittsburgh Presbytery, in January 2008, filed five charges against Edwards. They recommended as censure a rebuke with temporary exclusion from the practice of performing marriages (Evans 2008a:1). The most bizarre claim in Offenses 2, 3, and 4 was that Edwards neglected to perform liturgical aspects which should be part of a marriage ceremony (:3). In February 2008, Edwards presented six motions to dismiss or amend the charges. In June 2008, the PPJC convened for the first part of the trial. Edwards argued that charges 2-4, that she neglected to perform certain aspects which should be part of a Christian marriage, were inconsistent with charge 1, that she performed a marriage ceremony contrary to the Constitution (PJC of the Presbytery of Pittsburgh 2008a:2). The Prosecuting Committee had to admit their own "inherent incongruity between charge 1 and charges 2-4." Thus, the PPJC dismissed charges 2-4, and permitted amendments to charges 1 and 5 (PJC of the Presbytery of Pittsburgh 2008a:3).

The Prosecuting Committee accused Edwards of both performing a marriage ceremony which was disallowed and for not performing certain aspects which should be in a marriage ceremony. It seems from the rest of this study that complainant(s) add as many charges as possible in complaints, perhaps in the hope that the respondent(s) will be found guilty on just one of the charges.

The Prosecuting Committee added Scripture references to the charges, namely Gn 2:24, Dt 24:5, Lv 18:22, Mk 10:6-8, Rm 1:14-32, 1 Cor 6:9, 1 Cor 7:1-40, and Eph 5:22-23, without any explanation of their relevance (Evans 2008b:2). The Prosecuting Committee then amended the Scriptures in charges one and five again to Gn 2:24, Dt 24:5, Mk 10:6-8, 1 Cor 7:1-16, Eph 4:22-23, and 1 Cor 7:10-11 (PJC of the Pittsburgh Presbytery 2008a:4).

Lv 18:22 and 1 Cor 6:9, which address male same-gender relationships, did not apply to two lesbian women, and this writer presumes that the Prosecuting Committee realised that. However, is this biblilistic use of Scripture not evidence of sexism and heterosexism? Why are other legal and acceptable forms of sexual activity in

Scripture, such as sex with more than one wife, your concubines, your slaves, a prostitute, and your deceased brother's wife, not also applied as if sexual activity between "a man and a woman" was the only form of sex which was known?

One wonders, in light of the GAPJC ruling in the Spahr case of April 2008, whether there were any grounds to continue with a trial, if a Presbyterian minister could not perform a same-gender marriage in the first place. However, the Moderator of the PJC of the Pittsburgh Presbytery ruled in preliminary determinations of motions in May 2008, a month after the Spahr ruling, that the case should continue to trial in October. Several of Edwards' motions were denied: to dismiss the charges for failure to state a claim upon which relief could be granted; to dismiss based on timeliness of filing; and to modify the first and fifth charges of the complaints to remove reference to the Scriptures, which were not stated when the original charges were filed (PJC of the Pittsburgh Presbytery 2008a:1-8).

Edwards (2007:2) believed marriage was neither an essential of Reformed faith and polity, nor a sacrament. She claimed the Van Kuiken ruling by the PJC of the Synod of the Covenant (SPJC), in 2004, stated that "would not be sanctioned" and "would not be proper" in the 2000 Benton ruling did not require mandatory compliance. In the 2006 Spahr ruling, the PJC of the Presbytery of the Redwoods (PPJC) determined that the paragraph on marriage in the Directory for Worship was definitional, not directive.

The trial concluded in October 2008. The first charge accused Edwards of performing a marriage ceremony between two persons of the same gender that was contrary to the Scriptures and the Constitution of the PC(USA). The PPJC found that the Prosecuting Committee offered no evidence as to how Edwards violated these Scripture passages. Next, it had to determine whether the ceremony was prohibited by the Constitution (PJC of the Presbytery of Pittsburgh 2008b:2). The PPJC found that the Prosecuting Committee failed to prove that Edwards carried out a marriage ceremony at all. The PPJC concluded that whatever the ceremony was, it could not be a marriage, since it is not recognised by the *Book of Order* and "purporting to do so does not violate the Constitution either" (:5).

Furthermore, no evidence was offered of the actual words used at the ceremony, only the bulletin and order of service for a wedding ceremony. The PPJC found their ruling was consistent with the GAPJC ruling in the Spahr decision of April 2008:

> One cannot characterize same sex ceremonies as marriages for the purpose of disciplining a Minister of the Word and Sacrament and at the same time declare that such ceremonies are not marriages for legal ecclesiastical purposes (PJC of the Presbytery of Pittsburgh 2008b:5).

The PPJC found Edwards not guilty on the first charge by a 0-9 vote.

The second charged alleged that Edwards engaged in acts of defiance and contrary to the Scriptures and the Constitution of the PC(USA) (PJC of the Presbytery of Pittsburgh 2008b:4). Besides the discussion in charge 1, the PPJC found no evidence that Edwards held herself out as a minister of the PC(USA) when presiding over the ceremony (:5). The PPJC found her not guilty by a 0-9 vote (:6).

5.61.1 Summary

The 2008 PJC of the conservative Pittsburgh Presbytery had to follow the logical conclusion of the 2008 GAPJC in the Spahr ruling. The same-gender marriage ceremony which Edwards performed could not be a wedding ceremony. Thus, a minister could not be guilty of violating the Constitution, since same-gender marriages were not recognised by the *Book of Order*. Thus, even if Edwards called the ceremony a marriage, she was not guilty of performing a same-gender marriage. Edwards shared with this writer that she wanted her day in church court to argue that there was no prohibition on same-gender wedding ceremonies in the PC(USA) and in the *Book of Order*. One can understand the disappointment of gays and lesbians, and their supporters, with both this ruling and the Spahr ruling: by categorically stating that same-gender marriage could not be performed, and it did not exist, even if the minister called it a marriage.

However, complaints and charges stemming from civil same-gender marriages in the six states which permit them will force the various levels of PJCs to deal with the issue, especially since W-4.9001 states that marriage is a civil contract between a man and a woman. The legislatures in these six states and California have determined that same-gender marriages were legal civil contracts. This writer predicts that the next

polity question the PC(USA) will deal with is whether these civil same-gender marriages are recognised or not. It is highly unlikely that these marriages will be recognised by more than a handful of presbyteries and PJCs in California. Most presbyteries and ecclesiastical courts, in light of W-4.9001, will not recognise them.

Following Presbyterian polity, complaints and charges should be dropped against ministers for performing them, as well as ordained officers who enter into same-gender marriages, since they perform something which they cannot do in the first place. However conservatives Presbyterians have stated that they will continue to file complaints, and will appeal any decision up to the GAPJC.

5.62 The GAPJC Ruling in *Sundquist, et al. v. Heartland Presbytery*. Remedial Case 219-03 (formerly 218-18) in 2008

Two congregations in Kansas held congregational meetings in May 2007, and voted to request dismissal with property from the PC(USA) to the EPC (PC(USA) GAPJC 2008:2). On 27 October 2008, the GAPJC reaffirmed the decision of the PJC of the Synod of Mid-America that congregations did not have the right to call congregational meetings to vote on dismissal with property from the PC(USA) without the participation of the presbytery (:1). The GAPJC ruled:

> On the contrary, G-7.0302 and G-7.0304 limit the business of congregational meetings and do not include the topic of seeking dismissal. In 2008, the 218th [sic - 218th] General Assembly adopted Item 04-20 (*Minutes*, 2008 p.48), which refers to G-7.0304 and states, "Withdrawal from the Presbyterian Church (U.S.A.) is not a matter that can be considered at a congregational meeting" (:9).

A congregation must consult with the presbytery regarding dismissal, not first vote to dismiss, and then inform the presbytery.

The GAPJC warned:

> Free expression of conscience is limited for officers and pastors under G-6.0108b, and does not encompass the calling of congregational meetings, moving churches to seek dismissal from the denomination or obstructing constitutional governance of the church (PC(USA) GAPJC 2008:12).

It is interesting that Adams (2008e:1) from the conservative The Presbyterian Layman understood this to mean that leaders should not revise their property and incorporated documents. This comment must be seen in light of The Presbyterian

Layman giving advice and releasing a booklet to congregations on how to disaffiliate from the PC(USA) while retaining their property.

These two congregations, and tens of other congregations, are currently battling with their presbyteries over their properties, which are held in trust by the presbyteries. Some battles have even resulted in civil court cases to resolve property rights (see www.layman.org). These conservative congregations are voting to leave the denomination and join the EPC, due to the gay and lesbian ordination and/or installation and same-gender marriage debates in the PC(USA).

5.63 *Session of Bel Air Presbyterian Church, et al. v. Bove*; *Session of Bel Air Presbyterian Church, et al. v. Smith*; *Session of Bel Air Presbyterian Church, et al. v. Svendsen*; and *Session of Bel Air Presbyterian Church, et al. v. Vermaak*. Disciplinary Complaints Filed with the Presbytery of the Pacific in 2008.

On 27 February 2007, the Session of Brentwood Presbyterian Church in Los Angeles, California (Brentwood), where this writer serves as minister, approved the participation of its two ministers, Rev. R F Vermaak and Rev. Dr. C J T Svendsen, and Rev. D E Smith from West Hollywood Presbyterian Church, in the blessing of a same-gender relationship of two women in a special worship service in its sanctuary (PJC of the Presbytery of the Pacific 2008b:2). Rev. L Bove and Ms. R Killen, and their two daughters, had been worshipping at Brentwood for nine years. Bove (minister-at-large), Vermaak, Svendsen, and Smith are all ministers in the Presbytery of the Pacific (Presbytery).

In December 2007, Bel Air Presbyterian Church (Bel Air) and St. John's Presbyterian Church, two congregations in the presbytery, requested that the service not take place as planned in January 2008. The leadership of the presbytery met with the Session of Brentwood and tried to dissuade them from holding the service on site, but to move it offsite (PJC of the Presbytery of the Pacific 2008b:2). The session, however, recommitted itself to the service of blessing, and approved the participation of a fourth pastor from Redwoods Presbytery (Redwoods), Rev. Dr. J A Spahr. The

session made it clear that this was a same-gender blessing, not a marriage, and the moderator, Svendsen, wrote to the three participating pastors requesting that the wish of session be honoured.

On 14 December 2007, Bel Air filed a complaint with the PJC of the Presbytery of the Pacific, requesting a stay of enforcement for the service not to take place (PPJC) (PJC of the Presbytery of the Pacific 2007:1). The PPJC declined the stay with a 7-2 vote in December, allowing the service to take place on site, and issued a written ruling in February 2008, a month after the service occurred (PJC of the Presbytery of the Pacific 2008a:1-2). Bel Air, however, continued to state that complaints would be filed against all who participated. Svendsen ultimately withdrew from participating in the ceremony, but attended the service.

On 1 April 2008, Bel Air wrote a letter to Brentwood and all the sessions in the Presbytery of the Pacific, complaining that the actions of Brentwood, allowing its ministers to participate in the blessing, "was unconstitutional and contrary to Scripture because it was liturgically indistinguishable from that of a marriage ceremony" (Session of Bel Air Presbyterian Church 2008:1). They argued that the service had most of the elements found in a marriage ceremony (W-4.9004). Bel Air called Brentwood and its ministers' actions "erroneous," "a delinquency," "improper," and "violated the Book of Order" [sic - italicised]. Bel Air called Brentwood Session to publicly declare that the same-gender ceremony and the pastors' actions were in violation of the Constitution, on the grounds that there was no liturgical distinction with that of a marriage ceremony (:2). Five sessions in the Presbytery of the Pacific concurred (:3-7). Brentwood only received this letter at the end of April, when most congregations had already received their copy.

Brentwood met in June 2008 and decided not to respond to the letter, nor to apologise, but to communicate directly with Bel Air and its pastor/head of staff. Attempts to communicate were unsuccessful. In July 2008, seven sessions in the Presbytery of the Pacific (Bel Air *et al*) filed five similarly-worded complaints against the five ministers with their respective presbyteries, Pacific and Redwoods, claiming that the service ". . . was virtually identical to a marriage ceremony" (PJC

of the Presbytery of the Pacific 2008b:3) and requested that Investigative Committees investigate and consider further action (:10).

The complainants based their arguments on the 2000 Benton ruling and the 2008 Spahr ruling. The complainants, however, claimed that although the GAPJC, in the 2008 Spahr disciplinary case, stated that Benton was not applicable since it was a remedial case, Benton however applied in these cases since "[i]t is cited as authoritative for both remedial and disciplinary cases in the Annotated Book of Order cases" [original emphasis] (PJC of the Presbytery of the Pacific 2008b:4). However, in the 2007 Stewart decision, the GAPJC admonished that the Annotated Edition of the *Book of Order* was not authoritative (PC(USA) Minutes 2008:307). The complainants concluded that ". . . the GAPJC in *Spahr* did not conclude that Benton was inapplicable to all disciplinary cases, just the *Spahr* case [original italics]" (PJC of the Presbytery of the Pacific 2008b:3).

The complainants claimed the ceremony was "liturgically indistinguishable from a marriage ceremony;" therefore, the ministers violated the Constitution on six accounts. The only thing arguably missing was a proclamation conferring a new status on the parties. Technically speaking, this was not true. The state issues a marriage license and this conveys the new status, not the actions or words of a minister. Thus, the complainants argued that even though the theological distinction did not occur, one should look at the liturgical distinction, which they claimed was not present at the ceremony (PJC of the Presbytery of the Pacific 2008b:6).
First, the ministers failed to observe their ordination vows to further the peace, unity, and purity of the church by performing an unconstitutional same-gender ceremony despite admonitions from Bel Air, St. John's, and the presbytery (PJC of the Presbytery of the Pacific 2008b:6). However, the Brentwood Session, which approved the action, was not mentioned, and the complainants put the blame solely on the ministers who refused to heed warnings of possible disciplinary action (:7).

Second, the ministers failed to observe their ordination vows to adhere to the church's Confessions that marriage was between "one man and one woman" in the Westminster Confession of Faith ([sic - *The*] Book of Confessions [sic - italicised] 6.131, 6.133-134) and W-4.9001 (PJC of the Presbytery of the Pacific 2008b:7-8).

The irony was that one of the complainants from Bel Air, Rev. R Dermody, divorced his wife and remarried. Thus, the marriage of "a man and a woman" was applied to two lesbians, but not to heterosexuals.

Third, the ministers failed to observe their ordination vows to be governed by church polity by officiating and participating in a same-gender ceremony which was prohibited by Scriptures and church authority (PJC of the Presbytery of the Pacific 2008b:9). Yet, the complainants provide no Scriptural texts which spoke against a same-gender ceremony, or texts that specified what a heterosexual ceremony should look like.

Fourth, the ministers failed to take "special care" to avoid confusion with Christian marriage by not following the Benton criteria and keeping it liturgically distinct from a marriage ceremony. The complainants argue this failure was an offense under the Book of Order [sic - italicised] W-4.9001 and 4.9004, the 1991 Authoritative Interpretation and the Benton decision. Fifth, the ministers improperly performed a same-gender ceremony that closely mirrored a marriage ceremony, an offense under the Book of Order [sic - italicised] W-4.9001 and 4.9004, the 1991 Authoritative Interpretation and the Benton decision. Sixth, the ministers improperly appropriated liturgical forms from a Christian marriage in the conduct of a same-gender ceremony, violating the 1991 Authoritative Interpretation and the Benton decision (PJC of the Presbytery of the Pacific 2008b:10).

The Presbytery of the Pacific formed an Investigating Committee to examine the complaints. Bove, Smith, Svendsen, and Vermaak met with the Investigating Committee of the Presbytery of the Pacific, and all four were found not guilty, and the charges [sic - complaints] were dismissed (Investigating Committee of the Presbytery of the Pacific 2009a:1). The Committee used the case of Benton [sic - , *et al*] v. Hudson River and the "Gay [sic - lesbian] Blessing" case of Spahr v.Redwoods [sic - v. Redwoods Presbytery] (ibid). The committee found that no new status was conveyed; the constitution [sic - capitalised] and case law was not violated. The defendants followed the Benton standard. Additionally, the defendants followed the Spahr standard, which set aside Benton for judicial cases [sic - disciplinary], but not remedial, and none claimed to have done a Gay [sic - lesbian] wedding (:2).

The Committee reminded the defendants that the complainants could appeal the decision to the PJC of the Presbytery of the Pacific, but the Committee believed their decision would be upheld (Investigating Committee of the Presbytery of the Pacific 2009b:1). The Presbytery of Redwoods has not formed an Investigative Committee.

5.64 The GAPJC ruling in *Bierschwale, et al. v. Presbytery of Twin Cities Area.* Remedial Case 219-08 in 2009

Two ministers and an elder (Bierschwale *et al*) filed a remedial complaint on 27 February 2008 against the Presbytery of Twin Cities Area (Presbytery) with the PJC of the Synod of Lakes and Prairies (SPJC). This was in response to the presbytery voting to reinstate Dr. Capetz in January 2008, after he declared a scruple regarding G-6.0106b (see Chapter 5.55.2). The complainants sought relief on five grounds, based on the 2008 GAPJC ruling in *Bush, et al. v. Presbytery of Pittsburgh*. The SPJC held a trial in April and issued a preliminary order dismissing the complaint. The relief sought by the appellants could only be granted in a disciplinary case. Bierschwale *et al* challenged the Preliminary Order and amended their complaint, requesting that the SPJC admonish the presbytery to refrain from further irregular ordinations, installations, restorations or validations (PC(USA) GAPJC 2009:2). The SPJC issued its final ruling on 12 August 2008, dismissing the amended complaint for failing to state a claim upon which relief could be granted (:3). It found that the Bush ruling did not apply, since it dealt with ordination, and this was a reinstatement of an already ordained minister (PJC of the Synod of Lakes and Prairies 2008:1).

It is interesting to note that the SPJC did not reference the June 2008 Authoritative Interpretation on G-6.0108 issued by the 2008 General Assembly. This writer thinks it is possibly due to the full SPJC in August merely affirming the April preliminary ruling, and not taking the June Authoritative Interpretation into account. The 2008 Authoritative Interpretation revoked the 2008 GAPJC's interpretation in the Bush decision of the 2005 *Peace, Unity, and Purity* Report and 2006 Authoritative Interpretation, which the 2006 General Assembly issued on G-6.0108. The 2008 Authoritative Interpretation reaffirmed the 2006 Authoritative Interpretation and allowed candidates to scruple G-6.0106b.

Rather, the SPJC applied the GAPJC rulings in the two Wier decisions. The 1998 Wier I ruling quoted the 1927 report of the *Special Commission of 1925* that the Presbyterian Church in all its history had never nullified an ordination. The 2002 Wier II ruling stated that "[t]he ordaining and installing governing body is in the best position to determine whether self-acknowledgment is plain, palpable, and obvious, based on its knowledge of the life and character of the candidate." The SPJC found G-6.0108 applied to the Wier II case, and was foundational in their decision to sustain the preliminary order of the SPJC (PJC of the Synod of Lakes and Prairies 2008:1). The SPJC ruled unanimously that no relief could be granted, dismissed the case, and sustained and affirmed the Preliminary Order of the PJC (:2). Thus, Capetz' restoration to ministry was affirmed, and he continued to serve in a validated ministry.

Bierschwale *et al* appealed the decision of the SPJC to the GAPJC in September 2009 and specified twelve errors in the SPJC ruling. The GAPJC sustained only two specifications. Fourth, the SPJC erred by not conducting a trial to determine whether Capetz stated a departure from G-6.0106b and if so, whether that departure was a failure to adhere to G-6.0108, and if the foregoing occurred, whether the presbytery's action was irregular. Fifth, the SPJC erred by not conducting a trial to determine whether the presbytery waived the "fidelity and chastity" requirement of G-6.0106b, and if the presbytery's action was irregular (PC(USA) GAPJC 2009:3-4). In March 2009, the GAPJC, in a unanimous decision, affirmed in part and reversed in part the SPJC ruling and ordered the SPJC to hold a trial regarding specifications of error four and five (:7).

The GAPJC elaborated on several aspects of the decision. Regarding the departure motion, it found the appellants' claim that the presbytery acted irregularly in adopting the departure motion was a serious departure from essentials of Reformed faith and polity, was a claim for relief. The SPJC should determine whether Capetz' statements and the presbytery's adoption of the departure motion were in violation of G-6.0108 through a trial. Regarding the restoration motion, it found that Capetz had taken no action to violate G-6.0106b, and no relief could be granted. Nor did the presbytery ordain Capetz, but restored him to ministry. Thus, the appellants should

have addressed noncompliance of ordination standards or constitutional requirements through disciplinary action (PC(USA) GAPJC 2009:5), not remedial action.

Regarding the validation motion, the GAPJC found that Capetz was properly restored to office and there was no irregularity in validating his ministry. The GAPJC spelled out the effect the ruling would have on Capetz stating that his past, present or future conduct was not at issue in this remedial case, nor could a remedial case be used to challenge the actions of an individual officer according to 2002 Weir [sic - Wier] ruling. The GAPJC, however, found that disciplinary action could be brought against Capetz, since he had to abide to the Constitution, including G-6.0106b. The GAPJC concluded:

> This Commission cannot reach the questions raised by the parties in this appeal as to the validity and effect of the 2008 Authoritative Interpretation (AI) on G-6.0108b or whether *Bush* has effectively been overruled by the 2008 AI. The 2008 AI and *Bush* do not address restoration of officers to the exercise of church office. There is no ordination at issue in this case. Questions as to the validity and application of the statement in the 2008 AI that the requirements of G-6.0108 "apply equally to all ordination standards" of the PC(USA) are not properly raised in this appeal. (PC(USA) GAPJC 2009:6).

The GAPJC on the one hand claimed that Capetz, despite declaring a scruple regarding G-6.0106b, had to abide by G-6.0106b, on the other hand it claimed that it could not make a judgment on whether the 2008 Bush ruling still applied and if the 2008 Authoritative Interpretation by the General Assembly overruled it. This writer strongly disagrees with the way the GAPJC ruled in claiming, since this case is technically not about ordination, but restoration, it could not issue statements regarding the 2008 Authoritative Interpretation. This is another attempt by the current GAPJC to nullify the 2006 Authoritative Interpretation, based on the 2005 *Peace, Unity and Purity Report*, which allowed the practice of scrupling, including G-6.0106b.

Again, it shows the confusion in Presbyterian polity when the highest court cannot with certainty state whether the 2008 Bush ruling had been overruled by the 2008 Authoritative Interpretation. This situation will be compounded by the fact that the General Assembly will only meet in June 2010, and an overture or commissioner's resolution would be required to request the General Assembly to clarify the confusion.

5.64.1 Summary

The 2009 GAPJC, in *Bierschwale, et al. v. Presbytery of the Twin Cities Area*, determined that since the presbytery voted to allow Capetz to be restored under a scruple and a remedial case was then filed, the SPJC should have held a trial to determine whether that departure from the standard was properly granted. Thus, the restoration of Capetz was reaffirmed, but a trial will determine whether the action of the presbytery was irregular in approving the departure motion. The GAPJC reiterated that Capetz had to abide by G-6.0106b, despite Capetz declaring a scruple over it and the presbytery finding that his scruple was not a departure from the essentials of Reformed faith and polity. Additionally, this case did not pertain to ordination, but to restoration to ordained office; therefore, the GAPJC would not rule on the validity and effect of the 2008 Authoritative Interpretation on G-6.0108 or whether it had replaced the 2008 Bush ruling.

5.65 The PJC of the Synod of the Pacific Ruling in *Naegeli, et al v. Presbytery of San Francisco*. Remedial Case 08-01 in 2009

Three minister members of the CPM of the Presbytery of San Francisco (Naegeli *et al*) filed a complaint against the presbytery with the PJC of the Synod of the Pacific (SPJC) on 27 February 2008 regarding two irregularities with the advancement of Ms. Larges, a candidate, to “ready for examination” on 15 January 2008 (see Chapter 5.55.1). First, Larges refused to abide by *Book of Order* G-6.0106b to live in chastity in singleness, and second, the presbytery voted to adopt the recommendation of the CPM (PJC of the Synod of the Pacific 2008a:1). One must take note that this complaint was predicated upon the 11 February 2008 GAPJC ruling in the Bush decision, which overruled and set aside the Authoritative Interpretation by the 2006 General Assembly of Recommendation 5 of the 2005 *Peace, Unity, and Purity* Report (see Chapter 5.56).

The complainants argued that Larges was a self-avowed practicing and unrepentant lesbian woman (PJC of the Synod of the Pacific 2008a:2), who would not abide by

G-6.0106b. Yet, she was no longer in a relationship during her final assessment with the CPM. The complainants argued that this was not a result of repentance, but due to the break-up of the relationship (:6). The Committee of Counsel for the Presbytery of San Francisco (CCPSF) correctly argued Presbyterian polity was clear that sexual orientation did not provide grounds for a special assumption of sin in the assessment of one's fitness for office (PJC of the Synod of the Pacific 2008b:10).

Also, any future relationship in which Larges might be involved in "does not distinguish her from any other candidate who answers honestly the questions posed during examination" (PJC of the Synod of the Pacific 2008b:11). This principle was clearly established by the 2000 GAPJC in the Sheldon ruling, which found that, although Van Keuren had stated that he might be in a relationship in the future, he currently was celibate and G-6.0106b did not apply to him (see Chapter 5.30). Similarly, Larges was celibate at the time of her final assessment with the CPM and approval by the presbytery. Yet, she declared a scruple regarding G-6.0106b that she could not abide by it (PJC of the Pacific 2008a:6).

The complainants contended that the CPM erred with its recommendation and the Presbytery improperly granted Larges an exception, because the Bush ruling did not permit disobedience to a mandatory behavioural standard such as G-6.0106b (PJC of the Synod of the Pacific 2008a:7-8, 12). Thus, the complainants believed the Bush ruling should be retroactively applied to a recommendation by the CPM and the approval vote by the presbytery, both based on the 2006 Authoritative Interpretation, which allowed candidates to declare a scruple on G-6.0106b. Presbyterian polity simply does not allow for retroactive application! The complaint was wholly without merit, since Larges declared a scruple of an ordination standard, which at that given moment was the current Authoritative Interpretation of the Presbyterian Church.

The complainants set forth ten specifications of error by the CPM and the Presbytery (PJC of the Synod of the Pacific 2008a:13-14), later adding two more specifications of error (PJC of the Synod of the pacific 2009:3-5). However, the 2008 General Assembly, in June, issued a new Authoritative Interpretation of G-6.0108, which once again allowed scrupling of G-6.0106b and nullified the 2008 Bush ruling (see Chapter 5.60.1).

The SPJC held a trial and ruled on 20 March 2009 sustaining only one specification of error that the presbytery erred to advance the candidate as ready for examination because it improperly granted an exemption to the mandatory behavioural ordination standard of G-6-0106b:

> The Presbytery erred when it voted to certify the Candidate as "ready for examination … with a departure" because the examination for ordination is the proper time for Presbytery to determine whether or not a candidate's departure constitutes a failure to adhere to the essentials of Reformed faith and polity (*Theological Task Force on Peace, Unity and Purity of the Church*, Recommendation 5, c. 1-2, (*Minutes* 2006, p. 514). The debate and vote on January 15, 2008 was not an examination for ordination. The language of the motion on the floor was to certify the candidate as "ready for examination … with departure", thus an examination could not yet properly take place in advance of such certification. Moreover, discussion of the motion could not properly constitute an examination for ordination because it did not conform to G-14.0482, including the requirement that "the candidate shall appear before the presbytery and shall make a brief statement of personal faith and of commitment to the ministry of the Word and Sacrament." Neither the candidate nor the candidate's Statement of Faith was presented or made available to the Presbyters at their meeting of January 15, 2008 (PJC of the Synod of the Pacific 2009:5).

Thus, the SPJC rescinded the presbytery's certification of Larges as being a candidate "ready for examination" with a departure and declared the vote nullified, and found the presbytery had not properly ruled on Larges' departure. However, it declined to instruct the presbytery that Larges' departure constituted a failure to adhere to the essentials of Reformed faith and polity under G-6.0108. It also admonished both the presbytery and CPM to enforce mandatory church-wide ordination standards, but declined to remove Larges' name from the roll of candidates, since it lacked the authority (PJC of the Synod of the Pacific 2009:5-6).

5.65.1 Summary

The PJC of the Synod of the Pacific set aside the Presbytery of San Francisco's certification of "ready for examination" due to a procedural error by the presbytery. The complainants were dissatisfied with the ruling and filed an appeal with the GAPJC with eight specifications of error. Notably they argued that the SPJC failed to rule that G-6.0106b was a church-wide mandatory ordination standard that cannot be waived; thus, an essential in their view, and that the SPJC should have instructed the presbytery to remove the candidate from the roll of candidates (Adams 2009c:3).

The GAPJC will in al likelihood rule on this appeal in early 2010, before the 2010 General Assembly. This writer thinks that in light of the 2009 GAPJC ruling in Bierschwale, the GAPJC could again rule that G-6.0106b is a mandatory ordination standard which cannot be scrupled. Overtures by presbyteries and commissioners' resolutions would have to request the General Assembly, in turn, to issue another Authoritative Interpretation or the General Assembly would have to reaffirm the 2006 and 2008 Authoritative Interpretation.

5.66 *Boston Presbytery v. Southard*. Disciplinary Charge in 2009

Rev. J K Southard served as the Stated Supply Pastor of First Presbyterian Church of Waltham, Massachusetts (Waltham), a More Light congregation. On 1 March 2008, with the permission of the session, Southard performed a civil same-gender marriage of two women on church property (Brondyke *et al* 2008). The first woman, Ms. S J Herwig, was a male-to-female transsexual, who after a divorce in 1977, underwent reconstructive surgery to become a female. Herwig served as Adult Christian Educator and as a ministry intern at Waltham (First Presbyterian Church of Waltham [s a]). Additionally, Herwig was also a TAMFS Board Member.

In September 2002, Herwig was approved as candidate under care of the progressive Presbytery of Boston (Williamson 2002:1) and was certified ready to receive a call for ordination to the ministry of the Word and Sacrament in August 2006 (Spahr [s a]). The second woman, Ms. J Duhamel, was the Youth Christian Educator at Waltham (First Presbyterian Church of Waltham [s a]).

Rev. Brondyke and two others (Brondyke *et al*) from Fort Square Presbyterian Church, Quincy, Massachusetts, wrote an unsigned letter to the Stated Clerk of the Boston Presbytery to inform her that Southard had married Sarah [sic - Sara] Herwig and Duhamel "in violation of the Book of [sic – directory for] Worship of the PCUSA [sic] W04.9000 [sic - W-4.9000]." Additionally, Southard was in violation of her ordination vows and involved Herwig, as candidate for ministry, in her violation, and the session was in violation for approving the church building to be

used (Brondyke *et al* 2007 [sic - 2008]). Brondyke, in 2002, signed a statement of protest when Herwig was approved to become a candidate (Williamson 2002:3).

Southard met the presbytery-appointed Investigating Committee in January 2009 and received notice that a charge against her will be investigated by the PJC of the Boston Presbytery. It stated that Southard committed the following offenses: 1) Disregard for the Directory for Worship (W-4.9000), which expressly defines our biblical and constitutional understanding of Christian marriage as between a woman and a man; 2) Against the Form of Government (G-11.0403a) in failure to act in conformity with the *Book of Order*; 3) Against the Form of Government (G-11.0403d) in failure to carry on her ministry "in accountability for its character and conduct to the presbytery"; 4) Against the Form of Government in allowing an elder on session and a candidate for ministry (Herwig) to violate G-6.0106b; 5) Failure to fulfill her ordination vows to abide by the church's polity (W-4.4003e) (Southard 2009b:1).

Thus, Southard became the first Presbyterian minister to be charged for conducting a civil same-gender marriage. This writer expects the ruling to be appealed up to the GAPJC level, it might not rule before the 2010 General Assembly deals with the Report of the Special Committee of Civil Union and Christian Marriage.

5.67 Summary of the PC(USA) Polity from 1983 - 2009

Since unification in 1983, the PC(USA) continued to deal with gay and lesbian ordination issues, as well as a new issue; namely, same-gender blessings and marriages.

5.67.1 The Polity on the Ordination and/or Installation of Partnered Gay and Lesbian Christians

In the absence of an ecclesiastical ruling regarding partnered gay and lesbian ordination, the 1978 and 1979 "definitive guidance" statements became the

guideline. However, their legality has been continuously questioned since 1983. The 1985 GAPJC, in *Blasdell, et al. v. Presbytery of Western New York*, ruled that it was unconstitutional for the church to ordain any self-affirming, practicing, and unrepentant homosexual as elder, deacon, or minister of the Word and Sacrament. Additionally, the 1978 and 1979 "definitive guidance" was declared Authoritative Interpretations of the Constitution.

Since different processes were in place for ministers than deacons and elders, they will be discussed separately. The ordination standard for gay and lesbian ministers continually evolved. The 1992 GAPJC, in *LeTourneau, et al. v. Presbytery of Twin Cities Area*, extended the Authoritative Interpretation of gay and lesbian ordination to apply to candidates for ordination as well, no longer just to ministers. The LeTourneau ruling ignored the fact that Larges only declared a lesbian orientation, not same-gender sexual practice. Later General Assemblies would rectify this mistake and clarify that sexual activity, not sexual orientation, would prohibit persons from ordination and/or installation.

The 2000 GAPJC, in *Sheldon, et al. v. Presbytery of West Jersey*, ruled that G-6.0106b did not apply to a celibate gay candidate. If a candidate no longer remained celibate, the candidate could be removed as candidate. The 2007 GAPJC, in *Stewart v. Mission Presbytery*, ruled that ordination standards also applied to inquirers becoming candidates for ministry, not just to candidates and candidates ready to receive a call.

The 1992 GAPJC, in *Sallade, et al. v. Presbytery of Genesee Valley*, regarding Spahr, extended the ordination prohibition of partnered gays and lesbians to candidates ordained before 1978, disregarding Recommendation 14 in the 1978 "definitive guidance."

The 1993 General Assembly declared the 1978 and 1979 "definitive guidance" had become Authoritative Interpretation of the Constitution. Yet, the 1993 GAPJC in *Hope Presbyterian Church v. Central Presbyterian Church*, the 1995 GAPJC in *Session of Central Presbyterian Church of Huntington, NY v. Presbytery of Long Island*, and the 1998 GAPJC, in *Wier v. Session of Second Presbyterian Church of*

Fort Lauderdale, FL (Wier I), ruled that the ordination of self-affirming, practicing homosexual persons were irregular, but were not annulled, and the officers were not removed from office.

After conservatives failed to have several General Assemblies add a "b" part to G-6.0106, they finally succeeded in 1996; G-6.0106b became an ordination standard in June 1997, when the majority of presbyteries approved it. General Assemblies in 1997, 2001, and 2008 sent amendments to presbyteries to vote to have G-6.0106b deleted and/or amended.

The 1998 General Assembly approved an Authoritative Interpretation of G-6.0106 that sexual practice, not sexual orientation, was a barrier to ordained service. The 1999 General Assembly approved that gays and lesbians should not be forced to have conversion therapy to change their sexual orientation to a heterosexual orientation.

The 2000 GAPJC ruling, in *Session of Londonderry Presbyterian Church, et al. v. Presbytery of Northern New England*, led to congregations interpreting for themselves what G-6.0106b meant, rather than stating that they would not comply with it. Many congregations would ordain partnered gays and lesbians.

The 2002 GAPJC, in *Wier v. Session of Second Presbyterian Church of Fort Lauderdale, FL* (Wier II), provided some clarity as to what was permissible to be asked of gay or lesbian candidates, and confirmed that self-acknowledgment regarding sexual practice, in accordance with G-6.0106b, had become the new standard. However, if reasonable cause existed regarding a candidate, then all candidates must be questioned alike. The 2003 GAPJC, in *Presbytery of San Joaquin v. Presbytery of the Redwoods*, and *Hart, et al. v. Presbytery of the Redwoods*, reaffirmed that the Wier II standard had replaced the 1992 LeTourneau ruling, and self-acknowledgment by the candidate was required.

The 2006 General Assembly approved the 2005 *Peace, Unity, and Purity* Report of the TTF, and issued an Authoritative Interpretation on G-6.0108. Elected officers must conform to the essentials of faith and polity, and have the right of freedom of conscience with certain bounds; governing bodies must apply standards and discern

which are essential for ordained service. Candidates could also declare a scruple regarding G-6.0106b, which was open for review by a higher governing body. The Authoritative Interpretation maintained current ordination standards for church officers, but gave greater leeway to sessions and presbyteries in applying those standards to individual candidates for ordination.

The 2008 GAPJC, in *Buescher, et al. v. Presbytery of Olympia*, ruled that not every mandate in the *Book of Order* was an essential, but "fidelity and chastity" of G-6.0106b was mandatory and an essential for all officers. The 2008 GAPJC, in *Session of First Presbyterian Church of Washington, 1793, et al. v. Presbytery of Washington*, affirmed that presbyteries should not create their own essential articles which candidates had to abide by.

The 2008 General Assembly replaced the 2008 GAPJC ruling, in *Bush, et al. v. Presbytery of Pittsburgh*, which overruled the 2006 Authoritative Interpretation of G-6.0108 to allow scruples, with a new Authoritative Interpretation, which allowed scruples, including of G-6.0106b. It also sent Amendment 08-B, to delete and amend G-6.0106b, to the presbyteries for their vote. Additionally, the General Assembly issued an Authoritative Interpretation, not dependant upon the outcome of the vote on G-6.0106b; namely, that the 1978 and 1979 "definitive guidance" statements were no longer in effect. Several GAPJC rulings up to 1997, predicated upon the "definitive guidance," no longer had any effect. This writer believes it applies to General Assembly Authoritative Interpretations up to 1997 as well. Thus, only GAPJC rulings and General Assembly Authoritative Interpretations from 1997, predicated upon G-6.0106b, are in effect.

The 2009 GAPJC, in *Bierschwale, et al. v. Presbytery of the Twin Cities Area*, ruled that the SPJC should have held a trial to determine whether Capetz' departure from the ordination standard in G-6.0106b was properly granted. Thus, the restoration, not ordination, of Capetz was reaffirmed, but a SPJC trial will determine whether the action of the presbytery was irregular in approving the departure motion. The GAPJC reiterated that Capetz was not in a relationship, he had declared a scruple regarding G-6.0106b; yet, he had to abide by it as a constitutional standard.

Amendment 08-B failed to pass in May 2009 by a 78-95 vote; thus, progressive presbyteries and commissioners will continue to send overtures, commissioners' resolutions, and communications to have G-6.0106b removed. The polity battle over partnered gay and lesbian ordination and/or installation standards, in the absence of theological discussion, will continue.

The 2009 PJC of the Synod of the Pacific, in *Naegeli, et al v. Presbytery of San Francisco*, nullified the presbytery vote to certify Larges as a candidate "ready for examination," and ruled that the presbytery still had to properly rule on her departure.

5.67.2 The Polity on Same-Gender Blessings and Marriages

The issue of same-gender blessings and marriages only arose in the new PC(USA). It would become a parallel issue to the partnered gay and lesbian ordination debate, and would also tie up the ecclesiastical courts for years. The 1983 General Assembly of the newly formed PC(USA) adopted a new *Book of Order*. W-4.9001 stated, in part, that "marriage is a civil contract between a woman and a man." Uncertainty existed regarding what types of same-gender blessings were permissible, until the 1991 General Assembly issued an Authoritative Interpretation:

> If a same sex ceremony were considered to be the equivalent of a marriage ceremony between two persons of the same sex, it would not be sanctioned under the *Book of Order* (PC(USA) Minutes 1991:395).

Likewise, sessions could not make their buildings available, and ministers could not perform same-gender blessings, if they viewed them as marriages. Conservatives tried for years to either send amendments to W-4.9001, or a prohibition that same-gender blessings were not permissible, to the presbyteries. Examples are the 1994 Amendment E, or the Holy Union Ban, and the 2000 Amendment O.

The 2000 GAPJC ruling, in *Benton, et al. v. Presbytery of Hudson River*, reaffirmed the 1991 General Assembly's Authoritative Interpretation regarding same-gender blessings and unions.

In a stunning ruling, the 2008 GAPJC, in *Spahr v. Presbyterian Church (U.S.A.) through the Presbytery of Redwoods*, found Spahr not guilty of performing (liturgical) same-gender marriages. A minister could not be guilty of doing something which W-4.9001, by definition, did not allow them to do. W-4.9001 only allowed ministers to perform a marriage between a man and a woman, not a same-gender marriage. Similarly, the 2008 PJC of Pittsburgh Presbytery, in *The Presbyterian Church (U.S.A.) through Pittsburgh Presbytery v. Edwards*, predicated upon the Spahr ruling, found Edwards not guilty of performing a (liturgical) same-gender marriage.

Disciplinary complaints are currently being dealt with by Investigating Committees against ministers for performing, and officers for entering into, civil same-gender marriages in Massachusetts and California. The complaint against Rev. Southard has become a charge become and the PJC of the Presbytery of Boston will set the precedent on whether these marriages are impermissible under W-4.9001. The denomination is set for many years of appeal, at all the levels up to the GAPJC. Additionally, overtures, commissioners' resolutions, and communications from both conservative and progressive presbyteries, will request Authoritative Interpretations regarding both liturgical and civil same-gender marriages. The polity battle over same-gender blessings and marriages will continue.