

**Blasdell, et al. v. Pby of Western NY,  
Remedial Case No. 197-9,**

UNION PRESBYTERIAN CHURCH  
OF BLASDELL, NEW YORK,  
FIRST PRESBYTERIAN CHURCH OF  
NIAGARA FALLS, NEW YORK,  
LANCASTER PRESBYTERIAN CHURCH OF  
LANCASTER, NEW YORK,  
FIRST PRESBYTERIAN CHURCH OF  
CLARENCE, NEW YORK,  
THIRD PRESBYTERIAN CHURCH OF  
NORTH TONAWANDA, NEW YORK,  
BETHLEHEM PRESBYTERIAN CHURCH OF  
BUFFALO, NEW YORK,  
KNOX UNITED PRESBYTERIAN CHURCH OF  
BUFFALO, NEW YORK,  
COLONIAL VILLAGE PRESBYTERIAN  
CHURCH OF NIAGARA FALLS,  
NEW YORK,  
HYDE PARK PRESBYTERIAN CHURCH OF  
NIAGARA FALLS, NEW YORK,  
MACALPINE PRESBYTERIAN CHURCH OF  
BUFFALO, NEW YORK,  
PIERCE AVENUE PRESBYTERIAN  
CHURCH OF NIAGARA FALLS,  
NEW YORK, AND  
CLEVELAND DRIVE PRESBYTERIAN  
CHURCH OF BUFFALO, NEW YORK,  
Complainants-Appellants

vs.

THE PRESBYTERY OF WESTERN

## NEW YORK, Respondent-Appellee

This is an appeal in a remedial case from a decision by the Permanent Judicial Commission of the Synod of the Northeast (hereinafter "Synod") in a case entitled *The Session of Union Presbyterian Church of Blasdell, New York, et al, Complainants, vs. The Presbytery of Western New York, Respondent*. From a decision of the Synod dismissing the complaints on June 18, 1984, the Complainants appeal.

Notice of this appeal, the record and the briefs of both Complainants-Appellants and respondent-Appellee were timely filed, and the Complainant-Appellants have standing to appeal. (Rules of Discipline, D-13.0100 and D-13.0400.) The case involves a question of doctrine or of interpretation of the Constitution of the Presbyterian Church (U.S.A.), and the Commission has jurisdiction. (Form of Government, G-9.0103; G-13.1013; and Rules of Discipline, D-5.0100.)

Since there is no dispute among the parties as to the governing facts and because of the important issues presented by this appeal, a brief recital of the record and the proceedings below is warranted.

On June 15, 1983, the Session of the Westminster Presbyterian Church of Buffalo, New York (hereinafter "Westminster"), a member of the Presbytery of Western New York, adopted a resolution declaring its "congregation to be a 'More Light' congregation, extending to all of its members the opportunity for leadership. This includes the rights of homosexual persons to be ordained as elder or deacon." On June 29, 1983, notice of the adoption of this resolution was communicated by Westminster's clerk of session to the Presbytery of Western New York (hereinafter "Presbytery"), by whom it was taken under advisement at its regular meeting held on July 19, 1983. Although the Westminster action was discussed by Presbytery at its meeting on September 27, 1983, no presbytery action was taken. By the time of the scheduling of Presbytery's next meeting on November 22, 1983, the sessions of seven member churches of the Presbytery had adopted a resolution urging Presbytery to direct Westminster to rescind the action taken at its June 15, 1983, meeting as being contrary to an interpretative pronouncement of the General Assembly of the United Presbyterian Church in the United States of America and binding upon the Presbyterian Church (U.S.A.) in accordance with Section 1.9 of the Articles of Agreement executed as a part of the Plan for Reunion. The resolution submitted by the seven churches was tabled by the General Council of Presbytery until presbytery's meeting of February 14, 1984. The resolution of the seven churches was referred to as the "Atkinson Resolution." As reported in the Presbytery minutes, the presbytery, following an extensive debate, approved the following substitute motion in lieu of the first part of the Atkinson Resolution:

- (1) Since the Session of Westminster Church, Buffalo has taken a position in opposition to the guidelines of the General Assembly concerning the ordination of homosexual elders and deacons, the Presbytery finds their action, though taken in good conscience, to be in violation of established procedure.*
- (2) The Presbytery requests the Session of Westminster Church Buffalo to offer an overture to 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.*

Later the same day, the Presbytery adopted another resolution relating to the Westminster matter which reads as follows:

*That the Moderator appoint a five-member committee to enter into conversation with the Session of Westminster Church, Buffalo, to thoroughly review the issue of the ordination of homosexuals, and to come back to Presbytery with information and guidance concerning the overture requested from Westminster Session.*

Prior to the adjournment of Presbytery's February 14, 1984, meeting, a dissent and protest of Presbytery's actions in adopting the substitute motion was filed by twenty-seven commissioners. On March 4, 1984, the first of a series of complaints by the twelve complainant churches was filed with the stated clerk of Presbytery alleging both a delinquency and an irregularity as to the nonaction and action of Presbytery.

The complaints of the twelve churches were consolidated for trial before Synod. The decision of Synod was to dismiss the complaints. The majority opinion reasoned that the complaints had been filed prematurely in view of Presbytery's actions; that the Westminster action had not violated any lawful action of General Assembly; and that there was nothing in the Constitution of the Presbyterian Church (U.S.A.) that precluded a local congregation from electing and ordaining self-affirming and practicing homosexuals.

We conclude that the Synod was in error in each of these conclusions. The concurring opinion, while properly rejecting the reasoning of the majority opinion, concluded that the presbytery's action constituted a disapproval and sufficient response to Westminster's action and thus the Presbytery had not committed an irregularity or delinquency.

In brief, that is the record before this Commission. We turn now to a consideration of Complainant-Appellants' grounds of appeal. Essentially, their appeal presents a single issue for resolution which may be identified as follows: Did Presbytery commit either a delinquency or an irregularity within the meaning of the Constitution in the manner in which it acted on February 14, 1984, in response to the "More Light" resolution of Westminster? Basically, the answer to this issue presents the following three questions:

(1) What is the effect of the 190th General Assembly's pronouncement relating to the ordination of unrepentant, self-affirming, practicing homosexuals?

(2) Did the Westminster adoption of the "More Light" resolution constitute an irregularity requiring some appropriate action by the Presbytery?

(3) If so, did the Presbytery's action in dealing with this irregularity constitute a delinquency or an irregularity? These questions shall be treated in the order presented.

In response to overtures from the Presbytery of New York City and the Presbytery of the Palisades seeking definitive guidance on the question of the acceptability of an avowed practicing homosexual as a candidate for ordination to professional ministry, the 189th General Assembly (1977) of The United Presbyterian Church in the United States of America (UPCUSA) authorized the creation of a task force to study the church and homosexuality. The responsibility of the General Assembly to undertake that task was manifest in the following provision from its *Book of Order*:

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

Comparable authority existed in the Book of Church Order of the Presbyterian Church in the United States (BCO 18-6) and has been carried forward in the *Book of Order* of the reunited church. (G-13.0103.) All of these constitutional provisions are reflective of a fundamental principle of Presbyterian polity which has remained unchanged since 1797.

The General Assembly does possess a power to determine controversies, including

matters of interpretation presented to it, which, when exercised has the force of law to which the rest of the Church must conform its actions, at least until the General Assembly shall duly alter the action taken. *Anderson vs. Synod of New Jersey (Minutes, UPCUSA, 1962, Part I, pp. 316-325.)* This fundamental principle has recently been reaffirmed by the 195th General Assembly (1983) of the Presbyterian Church (U.S.A.) in the paper entitled, "Historic Principles, Conscience, and Church Government." (*Minutes, UPCUSA, 1983, Part I, pp. 142-157.*)

The task force appointed by the 188th General Assembly (1976) UPCUSA reported to the 190th General Assembly (1979), and its reports was referred to and submitted through the Standing Committee on the Church and Homosexuality. Although the task force report suggested more than one alternative as a means of response to the presbyteries' request for guidance, the General Assembly opted for an "authoritative interpretation" that precluded ordination of a self-affirming and practicing homosexual because of the Church Constitution's "underlying biblical and theological presuppositions and informing principles...." (*Minutes, UPCUSA, 1978, Part I, p. 251.*)

After its receipt of the task force report, the 190th General Assembly (1979) adopted the the report of the standing committee, which, in an introductory statement declared: "We conclude that homosexuality is not God's wish for humanity." (*Minutes, UPCUSA, 1978, Part I, p. 262.*)

The report continued, however, by affirming that there can be no place "within the Christian faith for the response to homosexual persons of mingled contempt, hatred, and fear that is called homophobia." (*Minutes, UPCUSA, Part I, 1978, p. 263.*) Moreover, "homosexual persons who sincerely affirm 'Jesus Christ is my Lord and Savior' and 'I intend to be his disciple, to obey his word, and to show his love' should not be excluded from membership." (*Minutes, UPCUSA, Part I, 1978, p. 263.*)

But on the subject of ordination, the Assembly's position was clear and unequivocal:

"...our present understanding of God's will precludes the ordination of persons who do not repent of homosexual practice." (*Minutes, UPCUSA, part I, 1978, p. 263.*)

That Assembly concluded by stating:

*That unrepentant homosexual practice does not accord with the requirements for ordination set forth in Form of Government, Chapter VII, Section 3 (37.03): ... (Ibid., p. 265.)*

A similar interpretive position was adopted by the Presbyterian Church in the United States. (*Minutes, PCUS, 1979, Part I, pp. 201-210.*) Not insignificantly, subsequent General Assemblies of both former churches, as well as the Presbyterian Church (U.S.A.), have reaffirmed that stated position on the issue of ordination of self-affirming, practicing homosexuals.

Argument has been made that each congregation has constitutional power and authority in the selection of its own officers for ordination. (G-6.0107.) That authority can be exercised only within the constitutional framework of the larger church to which each member church is connected. When the General Assembly interprets the Constitution to mean that self-affirming, practicing homosexuals do not meet the qualifications for ordination and installation, the local church must abide by that determination. These principles have been reaffirmed by the 195th General Assembly (1983), as follows:

*General Assembly elects its own officers within its own rules as does every other governing body. The particular congregation also elects its own officers, including the pastor. Yet each of these bodies does not function autonomously....The whole church determines the rules and qualifications. Each governing body must abide by the determination. (Minutes, 1983, Part I, p. 151.)*

Finally contention is that under the present *Book of Order* our Church is inclusive, not exclusive, and if a self-affirming, practicing homosexual is admitted to church membership, he or she is entitled, by virtue of that membership, to be elected to church office. (G-5.0102 and G-5.0202.) To accept this argument, it would be necessary for us to conclude that by adoption of the new *Book of Order* in accordance with the Plan for Reunion, the Church effectively overrode the pronouncements of the General Assembly concerning the ordination of self-affirming, practicing homosexuals. This we cannot do. Moreover, and in all events, we do not find that the action of the 190th General Assembly (1978) of the UPCUSA on this issue was "exclusive," but rather, one whereby individuals by their own unrepentant convictions and conduct exclude themselves from consideration for ordination.

Based upon the foregoing, it is our considered opinion, and we so find, that the "Definitive Guidance" of the 190th General Assembly (1978) of The United Presbyterian Church in the United States of America and the "Definitive Guidance" of the 119th General Assembly of the Presbyterian Church in the United States on the issues of ordination of self-affirming, practicing homosexuals were, in fact and in substance, authoritative interpretations of the Constitutions as they were then and as the Constitution presently exists. Therefore, it is unconstitutional for the Church to ordain any self-affirming, practicing, and unrepentant homosexual as elder, deacon, or minister of the Word.

Having concluded that the declarations of the General Assemblies constitute authoritative interpretation of the Constitution on this issue, we must determine whether the adoption by the session of the Westminster Church of the "More Light" resolution on June 15, 1983, constituted an irregularity requiring some appropriate action by the Presbytery. An irregularity is an erroneous decision or action. (D-1.0600.)

As presented to the Presbytery, the resolution declared:

*The Session of Westminster Church, Buffalo, believes that the sole criterion for full participation in the life of the church is an individual's acceptance of Jesus Christ as Lord and Savior. The Session further believes that the polity of the Presbyterian Church (U.S.A.) barring homosexual persons from ordained positions is morally wrong. It is our belief that we are called to accept all persons as brothers and sisters in Christ. The definitive guidance of the 190th General Assembly, UPCUSA (1978), encourages exclusion and discrimination rather than inclusion and acceptance and is thus in direct opposition to our calling. The Session therefore declares this congregation to be a More Light congregation, extending to all of its members the opportunity for leadership. This includes the right of homosexual persons to be ordained as elder and deacon. It is our belief that sexual orientation has no bearing on one's ability to benefit from and to contribute to the life of the church. Rather, we are bound together by God's love in ways that transcend differences.*

The particular churches of this denomination, wherever they are, taken collectively, constitute one church. (G-4.0301a.) A higher governing body shall have power to determine matters of controversy upon reference, complaint, or appeal. (G-4.0301f.) We view the action of the 190th General Assembly (1978), on the issue of the ordination of self-affirming, practicing homosexuals to have been such a determination of a matter of controversy, which is controlling on lower governing bodies until rescinded, altered, or supplemented.

The declaration by the session that "the session therefore declares this congregation to be a More Light congregation, extending to all of its members the opportunity for leadership [including] the right of homosexual persons to be ordained as elder and deacon" cannot stand as



an acceptable response to the valid interpretation of the Constitution by the General Assembly. The session's attempt to extend to unrepentant, self-affirming, and practicing homosexual persons the right to be ordained as elder and deacon contravenes the stated position of the church on this issue and is, therefore, erroneous.

We recognize that the session subsequently attempted to amend its June 15, 1983, resolution on April 18, 1984, deleting and replacing the first paragraph. This does not change the result. The "More Light" resolution, even as amended, does violence to the obligation of the session to recognize and avoid transgressing the constitutional pronouncements of the General Assembly.

All governing bodies of the church are united by the nature of the church and share with one another responsibilities, rights, and powers as provided in the Constitution. The governing bodies are separate and independent but have such mutual relations that the act of one of them is the act of the whole church, performed by it through the appropriate governing body. (G-9.0103.) Elders and deacons, as officers of our church, speak and act in the name of the whole church. (G-1.0303.) Elders are entitled to represent their particular churches in presbytery and to serve as members of the synod or the General Assembly, in addition to having the right to serve on the sessions of their particular churches. (G-14.0203; "Historic Principles, Conscience, and Church Government"; *Minutes*, 1983, Part I, p. 142-157.) 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.

We thus conclude that the Westminster Church, through its session, committed an irregularity by adopting and publishing a resolution proposing a course of action in defiance of the established position of the church on a matter which have properly been submitted to, reviewed, and determined by the General Assembly.

Once a complaint had been duly brought against the action of Westminster charging that its action was in contravention of the constitutional standards of the church and thus irregular, it was incumbent upon the Presbytery to recognize that action as irregular and to promptly take appropriate measures in dealing with it.

The final issue, therefore, is whether the Presbytery's response to this irregularity or a delinquency.

The Rules of Discipline provide for three levels of corrective action by the higher governing body when confronted with an irregularity or a delinquency by a lower governing body:

- (1) It is ordinarily sufficient for the higher governing body to record in its own proceedings, and in those under review, its approval, disapproval, or correction. (D-3.0400.)*
- (2) If necessary, the higher governing body may direct the lower governing body to reconsider and correct an irregularity or cure a delinquency. (D-3.0400.)*
- (3) ...review and correction of a lower governing body...may be obtained by judicial process.... (D-3.0500.)*

In this case, it was necessary that Presbytery determine the action of Westminster to be irregular and at least record its disapproval thereof. Beyond such disapproval, the Presbytery could have taken such further actions as allowed by the Rules of Discipline and as appropriate to assure constitutional compliance by Westminster.

The Presbytery dealt with the action of Westminster by adopting resolutions as set forth above, declaring, among other things, that the Westminster Session had "taken a position in opposition to the guidelines of the General Assembly," and "that this action was in violation of established procedure." The Presbytery also requested that the Westminster Session offer an overture to the General Assembly regarding the determination of qualifications for ordination by

the ordaining governing body and appointed a five-member committee to enter into conversation with the Westminster Session regarding these issues.

The issue thus presented is whether, by this action, the Presbytery fulfilled its duty of determining the action of Westminster to be an irregularity and of at least recording its disapproval thereof. We conclude that the minimum requirements of disapproval were satisfied.

Although the action of Presbytery could have been clearer and thus of more useful instruction, we interpret its action as constituting the minimum necessary determination and disapproval of the irregularity committed by the Westminster Session in its adoption of the "More Light" resolution. Having so identified and recorded its disapproval of this irregularity, the Presbytery has the continuing responsibility of assuring compliance with this constitutional standard as to ordination.

For the foregoing reasons the decision of Synod is reversed and the Presbytery is directed to take such further action as may be appropriate, consistent with this decision.

Elders William W. Black, Jose A. Capella, William F. Fratcher, Evelyn Reddin, and the Rev. Robert L. Craghead were absent from the meeting of the Permanent Judicial Commission.

**Dissenting Opinion of James W. Angell,  
Sarah W. Clark, Frances L. Hollis,  
Mary Bettis Love, Mary B. Steddom**

Recognizing that this case has properly, and of necessity, been decided on the basis of a correct exercise of ecclesiastical authority and the *Book of Order's* stated principles having to do with Administrative Review we, nevertheless, offer the following dissent:

We acknowledge that the *Book of Order* in effect in 1978 at the time the 190th General Assembly's statement of "definitive guidance" was made, under Form of Government, Chapter XIV, Section 10 (44.10), empowers the General Assembly to interpret the Constitution in such a manner, and that the policy therein enunciated has been reaffirmed by subsequent General Assemblies.

Such interpretations, however, cannot have the effect of amending the Constitution. This issue was settled by *Anderson vs. Synod of New Jersey* (*Minutes*, UPCUSA, 1962, Part I, pp. 316.325), *Buonaiuto vs. Session of the First Presbyterian Church of Greenlawn* (*Minutes*, UPCUSA, 1974, Part I, p. 317). The Anderson case which upheld a position of the Synod of New Jersey, said:

*Synod's contention assumes that there is somehow a difference in the force, on the one hand, of a declaratory deliverance of a General Assembly sitting in its legislative or administrative capacity, and, on the other hand, of a decision of a General Assembly sitting in its judicial capacity. Indeed there must be a difference as to a particular case, because the decision of a General Assembly sitting in its judicial capacity must be in the nature of things be "final and binding" in the particular case whereas a declaratory deliverance does not deal with a case at all. (Digest: The United Presbyterian Church in the United States of America, p. A328b.)*

The decision further stated:

*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. (Digest: The United Presbyterian Church in the United States of America, p. A328c.)*

It is our contention that the General Assembly statement which declares that "unrepentant homosexual practice does not accord with the requirements for ordination set forth in The United Presbyterian Church in the United States of America Form of Government, Chapter VII, Section 3 (37.03)" cannot be binding on lower governing bodies.

Such denial of access to church office is in direct opposition to an unequivocal provision of the current *Book of Order* (G-5.0202) which states:

*An active member is entitled to all the rights and privileges of the church, including the right...to vote and hold office.*

Whereas the *Book of Order* provides for a single category of active church membership, the General Assembly actions of 1978 and 1979 define a second category of membership, thereby effecting a fundamental change in the Constitution.

The *Book of Order* declares that the only process whereby it may be amended is by way of an overture and vote by the presbyteries. (G-18.0301.)

To declare that the "definitive guidance" referred to above is mandatory when it stands in conflict with other sections of the Constitution is amendment by legislation and therefore unconstitutional.

We also believe that the decision of the majority contravenes constitutional guarantees related to inclusiveness, especially as set forth in 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.*

This section follows a statement that church membership carries with it the duty of "participating in the governing responsibilities of the church." (G-5.0102.) These sections were not part of the law of the church in 1978 at the time of 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.

Granted that subsequent General Assemblies have been asked to consider the earlier position and have not acted to change the 1978 policy statement, the contradiction between these statements on the inclusiveness and the wholeness of the church, and the definitive guidance statement of 1978 has not been addressed or resolved. We do not believe that this denial of the right to be ordained to one of the ordained offices of the church is related to "profession of faith" in any believable sense. Profession of faith is repeatedly described by the *Book of Order* as meaning Reformed theological tradition and polity, and nowhere in its description of such "tradition and polity" is there any reference to sexual practices or differences.

Also, the *Book of Order* makes it clear that theological positions of members may differ (G-4.0403), and the idea that unrepentant, self-affirming, practicing homosexual behavior is the only disqualifying sin the church has thus far specifically addressed, causes us to feel that this is the kind of discriminatory treatment we have been taught to abhor.