

The Stated Clerk Gets It Wrong: A Look at His Advisory Opinion on the Task Force’s “Authoritative Interpretation”

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In his newly released “[Advisory Opinion #18: Discernment in Examining Bodies - G-6.0108](#),” the Stated Clerk of the PCUSA, Clifton Kirkpatrick, offers no clear guidance that the amended “authoritative interpretation” of the PUP Task Force, passed by the 2006 General Assembly, would still disallow the ordination of persons engaged in self-affirmed homosexual activity. **Indeed, most of what he says in his advisory opinion leans in the direction of suggesting that ordaining homosexually active persons is not necessarily an act of constitutional noncompliance.**

Rev. Kirkpatrick is in a difficult job. No Stated Clerk can be expected to get everything right. Rev. Kirkpatrick is proficient in most of his responsibilities. Unfortunately, this particular advisory opinion is probably the most important one that the Stated Clerk has written or will ever write. With all due respect, I believe that he has botched it badly.

The Stated Clerk’s new advisory opinion is consistent with his earlier far-fetched comparison between the PUP Task Force and, of all things, the Jerusalem Council in Acts 15 (see his article for the Presbyterian News Service, “[The Neverending Season](#),” Oct. 26, 2005; note too that the Stated Clerk repeated the comparison before commissioners at this year’s General Assembly). **While the PUP Task Force’s *Final Report* compared “sexual orientation” to ethnicity and declared that an ordaining body could reasonably characterize serial, unrepentant homosexual practice by an officer as a violation of a “nonessential” standard, the Jerusalem Council *did the exact opposite*.** The Jerusalem Council made a careful distinction between *ethnicity* (being a Gentile) and *sexual impulses* to engage in *behavior* that Scripture clearly deemed to be immoral. It understood, quite rightly, that while being a Gentile was only incidentally linked to sin—ancient Israel and early Judaism already had well-developed notions of righteous, God-fearing Gentiles—a desire for sexual behavior that Scripture strongly and consistent forbade was directly linked to sinful activity. Accordingly, the Jerusalem Council insisted that Gentiles abstain from *porneia*, “sexual immorality,” a concept that in early Judaism always included, first and foremost, bestiality, same-sex intercourse, incest, and adultery (incidentally, in that order). Paul made an identical point in his discussions in 1 Thessalonians 4:1-9; 1 Corinthians 5-7; and Romans 1:24-27; 6:19-21, as did Jesus in his discussion of what defiles a person in Mark 7. *When the Stated Clerk of the PCUSA extols the PUP Task Force for achieving a result comparable to the Jerusalem Council, when in fact the former pushed an agenda on sexuality that is diametrically opposed to the stance of the latter, then serious questions may be raised as to the accuracy and unbiased character of the Stated Clerk’s opinions on the new “Authoritative Interpretation” originated by the same Task Force.*

There are two particular instances in the Stated Clerk’s advisory opinion where he shows his bias toward allowing ordination of unrepentant, homosexually active persons.

- ***The absurdity of using usury as an analogous model.*** As “proof” that it is the right of every ordaining body to decide which ordination requirements are “essential,” the Stated Clerk cites the one example of usury laws: “For example, a session might determine that the *Book of Confessions* provision prohibiting usury (Question 142 of the *Larger Catechism*) does not prohibit a senior bank officer from ordination as an elder, because essentials of faith and polity are not involved.” Implicit here is the attempt to compare usury violations with serial acts of unrepentant homosexual practice. The comparison, which the PUP Task Force *Final Report* uses to support their reading of G-6.0106b and has been oft repeated since by individual Task Force members and supporters, is absurd.

(1) **At no time in the history of the church, including Scripture, were modest interest rates** (especially in an inflationary environment) **considered even remotely comparable in severity to engaging in homosexual practice.** To get a sense of the absurdity of this attempted comparison, try arguing that since we are willing to ordain former bank officers we should be willing to ordain persons actively engaged in sex with their mothers or siblings, persons actively engaged in “faithful” multiple-partner unions, and serial adulterers. Reasonable persons acting reasonably would understand such comparisons to be absurd because it is quite clear in Scripture and tradition that foundational matters are being wrongly lumped together with much lesser matters. *The Stated Clerk’s attempted analogy trivializes the historic significance given in Scripture and church tradition to a male-female prerequisite for all valid sexual activity.*

(2) **There is also no reasonable constitutional comparison between (a) a usury prohibition in the *Book of Confessions*, which is widely recognized as containing beliefs of varying significance, and (b) a prohibition of sexual relations outside of marriage between a man and a woman, which the *Book of Order* singles out for obedience from amongst all the confessional standards of the church** and does so for the obvious purpose of indicating that compliance with this standard, at least, is essential. *While the Stated Clerk at one point seems to accept the notion that the Book of Order itself sometimes gives clear indication that a standard is essential—he notes at one point that “the subjects covered in the ordination questions at G-14.0207 and G-14.0405” are “primary” ordination standards—he dodges the question of whether the Book of Order’s singling out of a particular sexuality standard for obedience carries any obvious implications for its essential character.*

(3) **Had the Stated Clerk cited consensual adulterous or incestuous unions as his “example,” or belief in Christ as Savior and Lord, it is doubtful that he could have persuaded his audience that “each ordaining body is responsible to determine whether a particular practice or belief departs from essentials of faith and polity.”** Ordaining bodies do not have complete leeway in making a “determination” on such matters. Indeed, given its genesis in the women’s ordination decision, the emphasis of G-6.0108b is *not* on any latitude that a

governing body might allegedly have in treating a pointed requirement of the *Constitution* as nonessential. Instead, *the emphasis of G-6.0108b is on a governing body applying the pointed requirements or obvious essentials of the Constitution to restrict the freedom of conscience of the candidate or officer.*

- ***Bias in citing the Weir decision rather than the Londonderry decision.*** **The Stated Clerk states correctly: “The 217th General Assembly’s authoritative interpretation of G-6.0108 did not override existing authoritative interpretations,” including decisions by the General Assembly Permanent Judicial Commission (the GAPJC, the high court of the PCUSA). Now the Stated Clerk might have cited as one such decision the 2001 Londonderry case** in which the GAPJC ruled with specific reference to G-6.0106b, that “there are no constitutional grounds for a governing body to fail to comply with an express provision of the *Constitution*”; moreover, that governing bodies must “comply with the express corporate judgment of the Church in an explicit constitutional provision” because failure to do so “exceeds the constitutional bounds of freedom of conscience” (citing G-6.0108a). Since the recently approved “authoritative interpretation” suggests in its amended form that higher governing bodies have a responsibility to overturn ordination decisions that do not “comply with the constitution of the PCUSA,” then it should be obvious, if previous GAPJC rulings are still intact, that ordaining “self-acknowledged” (i.e., unrepentant, self-affirmed) homosexually active persons is disallowed. The logic of this implied syllogism is inescapable:

A Major Premise

The new amended A.I., which states that ordination decisions are subject to higher judicial review for compliance with the *Constitution*, does not override existing A.I.s, including those by the GAPJC.

B Minor Premise

The GAPJC ruled in the 2001 Londonderry case that ordaining bodies could not ordain unrepentant practicing homosexuals.

1. Such ordinations would be in noncompliance with the *Constitution* because:
2. They violate the sexuality standard in G-6.0106b.
3. They “exceed the constitutional bounds of freedom of conscience” enunciated in G-6.0108.

C Conclusion

The new amended A.I. does not permit ordaining bodies to ordain unrepentant practicing homosexual persons.

With his conclusion that the 2006 GA’s A.I. did not override existing A.I.s by the GAPJC, the Stated Clerk should have been able to conclude in his advisory opinion that, given the 2001 GAPJC Londonderry case, the new A.I. provides no grounds for ordaining self-affirming, homosexually active persons.

This interpretation would also be consistent with another A.I., the 1978 “Definitive Guidance” on homosexual practice, which states emphatically:

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*. (emphasis added)

The expression “serious contradictions to the will of Christ” certainly indicates that ordaining “self-affirming, practicing homosexual persons” would be a violation of an essential ordination standard. Why else the use of the word “serious”? Of course, too, as noted above, the **singling-out effect of G-6.0106b** also clearly indicates the essential character of this ordination standard. Most importantly, **Scripture** is in no way ambiguous about its strong opposition to all homosexual practice (as I have shown in numerous writings on the subject, including *The Bible and Homosexual Practice* [2001] and, most recently, in my online responses to Jack Rogers’s new book, at <http://robgagnon.net/ArticlesOnline.htm>). On the basis of all these facts, shouldn’t it be obvious, even from the Stated Clerk’s own reasoning, that the new A.I. does not permit ordination of self-affirming, practicing homosexual persons?

Yet, instead of drawing this most obvious conclusion from his insistence that existing A.I.s by the GAPJC are still in effect, the Stated Clerk cites as his example only the GAPJC’s 2002 “decision in *Weir II* that, under G-6.0106b, departures may be the subject of questioning only if they are self-acknowledged or the ordaining body has ‘plain, palpable and obvious’ evidence of such departures.” In other words, **the Stated Clerk appears willing to cite only GAPJC cases that appear to limit the application of G-6.0106b, not A.I.s by GA and by the GAPJC that clearly enforce compliance with G-6.0106b.** *Does this not have the appearance of a heavily biased advisory opinion?* **Moreover, the Stated Clerk cites *Weir II* in a misleading way,** for he fails to cite the full decision that gives governing bodies almost unlimited right to inquire of candidates for office as long as the governing body inquires equally of all candidates (see Gordon Fish and Jim Tony, “**Wrong on *Wier II*,**” at www.presbycoalition.org, June 2006).

As with the PUP Task Force, the Stated Clerk cites **the Adopting Act of 1729** as establishing a virtual absolute right of local and regional ordaining bodies to determine what standards are essential and thus compulsory. But no one who truly understands early eighteenth century American Presbyterianism could reasonably understand this Act in any absolute sense. It applied only to the array of confessions in an undifferentiated document like the Westminster Standards. **It was certainly never intended to allow ordaining bodies the right to ordain someone who denied the lordship of Jesus Christ or who engaged in unrepentant homosexual practice, incest, or adultery.** The Adopting Act never granted *carte blanche* autonomy to local and regional bodies in ordination decisions. Moreover, our current *Book of Order* does not grant such autonomy.

It would make a mockery of the *Book of Order* to suggest, for example, that a local or regional ordaining body would have the right to make compliance with any of the ordination vows optional; or, for that matter, to disregard the clear intent of singling out in the *Book of Order* a particular confessional standard for obedience, such as the sexuality standard in G-6.0106b (which, incidentally, is also explicitly called a “requirement” and associated with mandatory “shall” language—a threefold cord).

While acknowledging that “ordaining bodies are . . . not [to] ‘push the limits’ in making . . . determinations [about fitness for office],” **the Stated Clerk emphasizes that only “extraordinary cases” should be taken to the GAPJC and that the church should “exercise restraint” in utilizing the right of judicial review**, “reserving its use to clear cases of abuse of authority by ordaining bodies.” Unfortunately, **the Stated Clerk does not mention that Scripture, the *Book of Order*, the 1978 A.I. on homosexuality, and the 2001 Londonderry decision of the GAPJC all converge to a clear point of agreement: *Ordaining self-affirmed, homosexually active candidates would be a “clear case of abuse of authority by ordaining bodies.”*** Instead, the Stated Clerk leaves readers with the impression that ordination of this sort may not be, and probably isn’t, a clear case of abuse of authority.

We find also in the Stated Clerk’s advisory opinion the same contradictory, Alice-in-Wonderland language put forward by PUP Task Force members and other proponents of the Task Force’s (pre-amended) A.I. The Stated Clerk tells us **that the new A.I. “does not permit an ordaining body to set aside the national constitutional standards; they are *binding upon all ordaining bodies*”** (boldface and italics added) **but not necessarily bars to ordination.** *Now, what does “binding,” as applied to “standards,” mean to most reasonable persons understanding words reasonably? It means standards that must be obeyed, adhered to, and complied with, standards that are compulsory.* Just look up the meaning of “binding” in standard dictionaries. Something that is binding imposes the obligation or constraint of adherence and compliance. In normal usage, *binding* standards do not refer to standards that are formally in place but do not have to be adhered to or complied with. The latter are obviously *non-binding* standards. When ordaining bodies ordain persons engaged in serial, unrepentant homosexual activity, they are, for all intents and purposes, “setting aside” the national ordination standard in G-6.0106b. If they are not complying with it (to use the language of the 2001 GAPJC *Londonderry* case), then they are setting it aside, in effect. A standard not enforced is a standard not in force.

Finally, the problematic character of Advisory Opinion #18 is highlighted by contrary conclusions reached by the same Stated Clerk in [Advisory Opinion #8](#), updated in 2003. In the latter, the Stated Clerk offered the following opinion: “The debate [over the meaning of “chastity” in G-6.0106b] is not determinative to the discussion of the ordination of homosexual persons. **Sexually active homosexual persons may not be ordained**” (emphasis added). He then goes on to cite the 1978 A.I. and its reaffirmations by GAs in 1979, 1986, 1993, by the Presbyteries nationwide in 2001-2, and by the GAPJC in 2000. *He also cites a series of GAPJC cases, including the Londonderry decision, that show that higher governing bodies have a “responsibility” to bring into*

compliance lower governing bodies that ordain “sexually active homosexual persons.” Not a one of these GA and GAPJC decisions are mentioned in the new advisory opinion. Yet, had the Stated Clerk mentioned them, especially in conjunction with his continued insistence that “the 217th General Assembly’s authoritative interpretation of G-6.0108 did not override existing authoritative interpretations,” he would have established that the new A.I. does not change the fact that higher governing bodies have a clear “responsibility” to establish compliance with the *Constitution* when ordaining bodies ordain homosexually active persons. Perhaps the really tragic aspect of the new Advisory Opinion #18 is that it is at odds not only with Scripture, the *Constitution*, and past authoritative interpretations, but also with the author’s own self of just three years ago.

It’s sad to say but true: In this instance, we can be grateful that advisory opinions coming out of the Office of the Stated Clerk are not “binding,” but just opinions (<http://www.pcusa.org/oga/advisory-opinion.htm>). But, then again, even if they were “binding,” that wouldn’t mean that we would have to comply with them, would it?

Yes, it would.

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