

Why Box Turtle Kincaid Continues to Be Logic-Challenged and Now Also Principle-Challenged

On the High Court's Role in Interpreting the Actions of the 2008 PCUSA General Assembly regarding Homosexually Active Candidates

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"Box Turtle" blogger Timothy Kincaid continues to live up to the symbol of the box turtle as an animal that easily loses its way and is challenged by reality. Kincaid had already misrepresented my logic once about why the high court of the Presbyterian Church (U.S.A.) can still rule against governing bodies that ordain homosexually active candidates, despite the 2008 General Assembly "Authoritative Interpretation" on ordination standards ("[Gagnon Employs Tortured Logic](#)," July 5). Now he has misrepresented it yet again in his rejoinder on Aug. 2 ("[Clarifying Robert Gagnon's Tortured Logic](#)") to my July 30 response ("[Is Box Turtle Kincaid Logic-Challenged?](#)").

Kincaid has no choice but to acknowledge that he "misstated" my argument in his previous posting, and has to admit, "in a very exacting sense, Gagnon is correct." Then Kincaid's confusion really goes to work.

I. Kincaid's Confusion and the PCUSA High Court's 2008 *Bush* Decision: Who has the "tortured logic"?

Kincaid attempts to show that I have a skewed understanding of the 2008 General Assembly "Authoritative Interpretation" (A.I.) of the *Book of Order* clause dealing with the extent of "freedom of conscience" allowed candidates or officers of the church (G-6.0108). However, instead of citing the wording of that A.I. or even its non-binding rationale, he cites a *non-binding* "Advisory Opinion"

of the Stated Clerk's office concerning the **2006** A.I. on G-6.0108. Apparently Kincaid didn't realize that the 217th General Assembly was in 2006, not 2008. The 2006 A.I. is similar to the 2008 A.I.; indeed, the 2008 A.I. begins by "affirm[ing] the authoritative interpretation of G-6.0108 approved by the 217th General Assembly (2006)." Nevertheless, the 2008 A.I. is distinct from the 2006 A.I. If Kincaid, a person who constantly bullies others for not getting their facts straight, can't even get this fact correct, what does this level of carelessness say about his credibility?

The non-binding character of the Advisory Opinion by the Stated Clerk's Office that Kincaid cites is underscored by the fact that in early 2008 the PCUSA high court, the General Assembly Permanent Judicial Commission (GAPJC), disagreed with the Stated Clerk's opinion by ruling *unanimously* in its [Bush](#) decision:

It would be an obstruction of constitutional governance to permit examining bodies to ignore or waive a specific standard that has been adopted by the whole church, such as the 'fidelity and chastity' portion of G-6.0106b, or any other similarly specific provision. (pp. 4-5, 7; for detailed discussion of this decision go [here](#))

In other words, governing bodies do not have the right to ordain homosexually active candidates in direct violation of a specific provision of the Constitution. The "fidelity and chastity" portion of G-6.0106b specifies that "among" "the historic confessional standards of the church" to which candidates for ordained office must conform is

the requirement to live either in fidelity within the covenant of marriage between a man and a woman ... or chastity in singleness.

So the Stated Clerk's Office was wrong. As the high court noted, the 2006 General Assembly did not approve the *rationale* of the 2006 A.I., which did interpret the A.I. as permitting homosexually active candidates to be ordained. It approved rather the text of the A.I. itself. And to that text the 2006 General Assembly added a qualifying amendment; namely, that "higher governing bodies" such as the GAPJC have the right to "review" any action by a lower governing body, to test not just "whether the ordaining/ installing body has conducted its examination reasonably, responsibly, prayerfully, and deliberately" (which remained from the original overture) but, more importantly, "*whether the examination and installation decision comply with the constitution of the PCUSA.*" The "Peace, Unity and Purity" Task Force that had proposed the "Authoritative Interpretation" opposed this addition, as did homosexualist commissioners, but it passed in spite of their opposition. Their resistance to the addition underscores the fact that they knew its passage would have negative ramifications for their "local license" scheme.

The implication of the addition was that if a governing body ordained a person who did not comply with a specific ordination requirement, such as the “fidelity and chastity” requirement in G-6.0106b, higher governing bodies such as the GAPJC would have the right to reverse the decision. The presbytery and local session are thus not the final arbiters for determining a candidate’s compliance with essentials, contrary to what the supporters of the 2006 A.I. wanted and what the supporters of the new 2008 A.I. want. There must be identifiable, churchwide ordination essentials; otherwise there would be no point to granting higher governing bodies the right to review decisions for compliance with the Constitution.

Was this 2008 ruling by the GAPJC a plot by a rightwing-dominated, “homophobic” court? No, the GAPJC is widely acknowledged as being composed mostly of persons who support the blessing of homosexual unions and the ordination of homosexually active candidates. Yet they had the integrity and good sense to recognize that an “Authoritative Interpretation” cannot change the *Book of Order* (the polity half of the PCUSA Constitution, the other half being the *Book of Confessions*). It can only “interpret” the *Book of Order*. A specific ordination requirement in the *Book of Order*—explicitly singled out from among all other “historical confessional standards of the church” no less—cannot be violated by *any* governing body at any time. To do so would be, in the words of the very clause of the *Book of Order* that the 2006 A.I. was suppose to interpret, “to obstruct the constitutional governance of the church” (G-6.0108a).

Kincaid calls this reasoning adopted by me and by the mostly left-of-center high court “tortured logic.” As it is, the “tortured logic” belongs entirely to Kincaid and the ideologues in the “Peace, Unity and Purity” Task Force who think now, and thought then, that a mere “authoritative interpretation” passed by a General Assembly can overrule the clear wording of a constitutional amendment passed and repeatedly reaffirmed by the presbyteries of the PCUSA in ever increasing margins in 1996-97, 1998-99, and 2001-2002. “Tortured logic” is when someone claims, as the writers of the 2006 A.I. did and later the writers of the 2008 A.I., that an ordination requirement in the Constitution (the *Book of Order*) explicitly singled out from among all “the historical confessional standards of the church” for the obvious purpose of stressing compliance—in other words, of all the ordination requirements this one we want governing bodies to make a special point of keeping—is not a necessary barrier to ordination when violated.

II. Why the Text of the 2008 General Assembly A.I. on Ordination Requirements Need Not, and Should Not, Be Interpreted to Permit the Ordination of Homosexually Active Candidates

Now let’s turn to the wording of the new 2008 A.I. on G-6.0108 (the John Knox Overture) whose formulators wrote with the design of overturning the 2008 GAPJC *Bush* decision. The A.I. consists of 4 sentences:

[1] The 218th General Assembly (2008) affirms the authoritative interpretation of G-6.0108 approved by the 217th General Assembly (2006).

[2] 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.).

[3] 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.

[4] 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).

In the month or two between the time that this overture was passed and the 2008 General Assembly convened, I put online a detailed [critique of the John Knox Overture](#) that pointed out a series of internal contradictions, absurdities, and other problems with the overture and its attached rationale. Had the authors and advocates for that overture taken the time to read my critique they might have made the appropriate changes to make the overture workable. But they didn't do so. Consequently they are stuck with an essentially untenable A.I. that cannot achieve what they wanted to achieve.

Now where in the text of this A.I. does it state that a governing body can ordain homosexually active candidates in violation of the specific constitutional requirement in the *Book of Order* (G-6.0106b)? Nowhere that I can see. Nor could it have constitutionally done so. Let's look at the individual elements.

1. *The first sentence: affirming the 2006 A.I. with its "higher review" clause.* The first sentence states that the 2006 A.I. is still in place. Ironically the homosexualist-leaning Advisory Committee on the Constitution (ACC) suggested this revision at the 2008 General Assembly. Its effect is the opposite of what the ACC intended. Affirmation of the 2006 A.I. means, per the amendment added to that A.I. at the 2006 General Assembly regarding higher review and per the 2008 *Bush* decision of the GAPJC (see above), that *higher governing bodies like the GAPJC have the right to overturn the ordination decisions of lowering governing bodies that do not comply with specific ordination requirements in the Book of Order.* The very concept of higher review for constitutional compliance presupposes that there are identifiable, churchwide ordination essentials—a consequence that guts the rationale for the A.I. (which presumed that there were no such identifiable essentials to which all sessions and presbyteries were bound). The wording of the 2006 A.I. does not collapse

review for constitutional compliance into mere technical reviews to confirm that the examination was done “reasonably, responsibly, prayerfully.” The 2006 A.I. clearly distinguishes these two types of review and affirms both.

2. *The second sentence: applying the requirements of G-6.0108 equally (not all ordination requirements are equal).* The second line says, “the requirements of G-6.0108 apply equally to all ordination standards of the Presbyterian Church.” Contrary to what the authors of the A.I. want, *this cannot be read to say that “all ordination standards carry equal (non-binding) weight.”*

(a) The last line of this A.I. itself makes clear that not all ordination standards are equal. It explicitly states that an examining body “cannot excuse a candidate’s inability to perform the constitutional functions unique to his or her office (such as administration of the sacraments).” So, then, not all ordination standards are equal. Governing bodies have no leeway to ordain a candidate that cannot fulfill constitutional functions.

(b) *The very portion of the Book of Order that this A.I. purports to “interpret” (G-6.0108) denies any assumption that all ordination standards are equally non-binding.* It states explicitly that allowable freedom of conscience to dissent on the part of candidates and officers cannot extend to actions “obstructing the constitutional governance of the church.” Persons have some allowable freedom of conscience with respect to belief, though even this is limited (for example, one cannot be ordained who does not confess Christ as Savior and Lord in accordance with the first ordination vow). However, they do not have the right to obstruct the church’s governance by refusing to comply with a *Book of Order* (i.e. polity) provision. For example, officers are allowed to believe that homosexually active candidates should be entitled to ordination. But they are not allowed to participate in the ordination of candidates who are homosexually active because that kind of action would clearly constitute an obstruction of the church’s constitutional governance.

(c) *The idea that there are no identifiable churchwide essentials whose violation serves as necessary barriers to ordination leads to absurdities.* It would entitle governing bodies to ordain persons who were active and unrepentantly involved in adultery or sexual unions involving three or more persons; who refused to confess Jesus Christ as Savior and Lord in accordance with the first ordination vow and the historic faith of the church; and who refused to ordain women. Therefore it cannot be seriously taken to mean that a governing body has a right to ordain candidates no matter how far they stray from the requirements of the *Book of Order*.

For these three reasons (a, b, c) the second line of the 2008 A.I. cannot reasonably mean anything more than that ordaining bodies must enforce equally diligently all the different requirements in G-6.0108 that pertain to who can and cannot be ordained. It cannot mean that there are no ordination requirements to which all candidates for office in the PCUSA are bound to comply—at least not without contradicting itself, the very article of the Constitution that it interprets, and common sense.

3. The third sentence: Examine candidates prayerful on a case-by-case basis. Nothing in the remaining two sentences of the 2008 A.I. specifies that governing bodies have the right to violate a specific polity provision of the *Book of Order* governing ordination, and indeed could not, for that would result in “obstructing the constitutional governance of the church,” in violation of G-6.0108. Neither praying during the examination process nor examining candidates “on an individual, case-by-case basis”—both specified by the third sentence of the 2008 A.I.—entitles an examining body to ordain a candidate in clear violation of a specific ordination requirement, least of all one that is explicitly singled out in the *Book of Order* from among the historic confessional standards of the church like the “fidelity and chastity” clause of G-6.0106b.

4. The fourth sentence: Not required to accept departures and cannot excuse an inability to perform constitutional functions. The statement that “the examining body is *not required to accept* a departure from standards”—so the fourth sentence of the A.I.—is *not* the same as saying that an examining body is *not required to deny* a departure from a specific, mandated ordination requirement that would “obstruct the constitutional governance of the church.” An examining body is not required to accept the latter type of departure but it *is required to reject it*. Nor does the statement deny the right of a “higher governing body” such as the GAPJC to overturn a lower governing body’s decision to allow such a departure.

As noted above, the last clause about the examining committee not being permitted to ordain candidates who cannot perform constitutional functions in effect defines such functions as identifiable, churchwide ordination essentials. This in turn means that, contrary to what the rationale states, identifiable churchwide essentials exist. Therefore, applying G-6.0108 “equally to all ordination standards” cannot mean that all ordination standards are equal, unless all ordination standards are essential requirements that cannot be violated. Moreover, the last line indicates that these churchwide essentials include, but are not necessarily limited to, matters of polity and governance. Ordaining homosexually active candidates or other violators of specific ordination requirements would constitute an inability to carry out the constitutional function of ordaining only candidates who comply with the ordination requirements of the *Book of Order*.

In conclusion, not only is there nothing in the actual wording of the 2008 Authoritative Interpretation of G-6.0108 that allows governing bodies to ordain candidates who are homosexually active in clear violation of a specific ordination requirement in G-6.0106b of the *Book of Order* but also there are elements both within the A.I. itself and in the portion of the *Book of Order* that it purports to interpret (G-6.0108) that positively forbid such a construal (to say nothing of common sense). It would be “tortured logic,” to use Kincaid’s own words, to arrive at any other conclusion.

III. Why We Don't Know What the *Majority* of Commissioners at the 2008 General Assembly Intended regarding Ordination of Homosexually Active Candidates

Kincaid is left with sour grapes. He says: "Gagnon knows full well.... that it was the intention of the General Assembly to allow those local bodies who wish to ordain gay or lesbian Presbyterians the freedom to do so." This is a false statement. How do I know how each and every member of the General Assembly interpreted the words of the 2008 A.I.?

I can surmise that the authors of the overture and its vocal advocates had such an intention; and even that most of those voting for it had such an intention. At the same time this A.I. passed by a relatively small margin, 375 to 325 (with four abstentions), 53% to 46%. Had only 25 out of 704 commissioners, a mere 3.5%, voted for the overture without realizing that it would allow governing bodies to ordain anyone irrespective of what degree he or she violated the ordination requirements of the *Book of Order* or to what degree he or she obstructed the constitutional governance of the church, and irrespective of any right to higher judicial review for constitutional compliance, then Kincaid's claim would not be true.

I was both a commissioner and an overture advocate in the 2006 General Assembly and I was an overture advocate again in the 2008 General Assembly. I saw at both Assemblies a lot of confused commissioners—commissioners who were confused even when the overture up for a vote was clear. In the case of the John Knox Overture that became the 2008 A.I. on G-6.0108, the wording was very oblique and contradictory, especially if one attempted to interpret it along the lines of the rationale that accompanied the overture. If so interpreted it would lead to absurd results like giving governing bodies the right to ordain persons who didn't even believe in Jesus or who were actively engaged in adultery or polyamory. Furthermore, the fact that the overture was revised in the final days of the Assembly to "affirm the authoritative interpretation of G-6.0108 approved by the 217th General Assembly (2006)" could only have added to the confusion since that A.I. specifies the right to higher review for constitutional compliance, which presupposes that lower governing bodies do not have the right to ordain candidates in violation of national ordination requirements.

Confirmation of this confusion became apparent to me in the Church Orders Committee, where the overture had to be approved before going on to the plenary for a final vote. When I made the observation to the committee that approving this overture would mean that there would no longer be *any* identifiable churchwide essentials for ordination, not even for faith in Christ or fidelity in marriage, I got many puzzled and confused looks. And yet that is exactly what the rationale claimed when it said: "For any governing body to declare a standard 'essential' in the abstract, for all time and persons, is wholly at odds with the historic practice and theological commitments of the Presbyterian Church" (point 5). Pure and simple: There are no ordination

essentials “for all times and persons.” Even though the overture advocate (Prof. Mark Achtemeier of Dubuque Seminary) made that (absurd) point in his speech to the committee, many did not pick up on it (I suspect precisely because it was such an unbelievable idea). Without such a premise the text of the overture could not make enforcement of the sexuality standard in G-6.0106b optional, since the text nowhere specifies or singles out the sexuality standard. With such a premise, however, one is led to absurd results like the possibility of ordaining non-Christians, adulterers, and polyamorists; contradiction with the overture’s own claim that candidates have to at least be able to perform constitutional functions; and contradiction with the provision of the Constitution that the overture was suppose to “interpret” (G-6.0108, which expressly forbids ordinations that obstruct the church’s constitutional governance). Either way, whether one accepted the outrageous premise of the rationale or did not believe that such a premise was being made, the situation was extremely confusing.

So, no, I honestly do not “know full well” that the majority of the commissioners at the 2008 General Assembly intended the passage of the A.I. to mean that governing bodies could circumvent the clear mandate of the sexuality standard in the Constitution. (And Kincaid who wasn’t there, who can’t even find the right A.I. to discuss, and who has little or no knowledge of the PCUSA process knows much less than I do.) In fact, I’m inclined to believe that *more than 25 commissioners* who voted for the overture were dreadfully confused when they did so. Any fair reading of the text of the overture will indicate how obliquely its message is put.

That is why the PCUSA courts, and especially the high court (the GAPJC), cannot be bound by the rationale that accompanies the overture but is not actually voted on by the General Assembly. It is impossible to know, especially in a close Assembly vote like this one with a text that does not harmonize well with its rationale and which was revised midway through the Assembly proceedings, whether the majority of commissioners who voted for the overture did so in full agreement with the overture’s rationale.

Kincaid insinuates that I am somehow disingenuous in asserting that the rationale for the Authoritative Interpretation carries no authoritative status. What he doesn’t seem to realize, or care to realize, is that this is not *my* rule. It is the rule of the Presbyterian Church. It has been a rule that liberals have operated with for years, attempting to interpret the “fidelity and chastity” clause in G-6.0106b in ways that ran absolutely counter to that overture’s original rationale. Classic examples have been: Princeton Seminary Prof. George Hunsinger’s well-known argument that “chastity in singleness” in G-6.0106b could include a homosexual relationship, even though G-6.0106b sets it in an either-or contrast with living “in fidelity within the covenant of marriage between a man and a woman”; and the efforts by members of the “Peace, Unity, and Purity” Task Force, the Advisory Committee on the Constitution, and other homosexualist forces to argue that violation of the “fidelity and chastity” clause in G-6.0106b was not a necessary barrier to ordination, even though the authors of this

amendment and its rationale and the various governing bodies that successively voted for it clearly believed and stated otherwise. The only reason why the high court, the GAPJC, has not bought this leftwing argument about G-6.0106b over the years is that the wording of the fidelity and chastity clause was sufficiently clear, even without its non-binding rationale, to make attempts to circumvent it look unreasonable. The same cannot be said of the confusing text of the 2008 A.I. on G-6.0108, as I have shown here.

IV. Why Kincaid Is Not Only Logic-Challenged But Also Principle-Challenged

The really disingenuous part of Kincaid's article begins when he chastises "so many religious anti-gays" (the nomenclature that he uses for people like me) for allegedly "car[ing] little about the Spirit of the Gospel," "quickly discard[ing] grace and replac[ing] it with legalism."

Kincaid is the same guy who has recently chastised me for [my opposition to a retranslation of the Heidelberg Catechism](#) because, Kincaid alleges, I allowed my "homophobia [to] trump the written witness" ([here](#)). Because the 1962 English translators reinserted a reference to "homosexual perversion" and several other vices that the original German authors of the Catechism left out from their clear reference to 1 Cor 6:9-10, Kincaid is outraged that I would not agree that a retranslation is necessary. He completely ignores the fact that there are no historical grounds whatsoever for concluding that the original authors left out the reference to homosexual practice because they had some disagreement (or lack of understanding) regarding Paul's indictment of homosexual practice in 1 Cor 6:9. Kincaid completely ignores the fact that all the evidence indicates that reference to homosexual offenders was left out because it would have scandalized 16th century children for whom the Catechism became a central resource for instruction. In short, he completely ignores the fact that it is against the spirit of the text of the Catechism to initiate a long process in the PCUSA to remove two words from the 1962 translation for the express purpose of attempting to normalize the very behavior whose mention was excised in the Catechism precisely because of the abhorrence with which it was viewed. What is that but a form of textual legalism on Kincaid's part, utilized when it serves his homosexualist interests? (For a fuller response go [here](#).)

Kincaid also operates with a concept of **Spirit and grace** alien to the New Testament witness. He seems to believe, falsely, that the Spirit and grace empower radical deviation from, rather than radical obedience to, commands of Scripture that are consistently, strongly, absolutely, and counterculturally maintained. Paul would disagree totally: "Sin shall not exercise lordship over you for you are not under law but under grace" (Rom 6:14; in context referring to how the believer no longer lives in conformity to the sinful desires in one's members). Nowhere is there any suggestion in Scripture, understood in its

literary and historical context, that a male-female prerequisite for a valid sexual union was a matter of relative indifference to the authors of Scripture. One might just as well call retention of Scripture's prohibition of man-mother or man-sister intercourse in cases where the relationship is adult, committed, and loving evidence of legalism.

Even more disingenuous is Kincaid's contention that "Gagnon's position is that language technicalities are the means by which the court should ignore the intention of the Assembly," implying that Kincaid himself has some sort of inherent aversion to **looking for "loopholes" in texts**. Kincaid is happy to tell others that there are valid loopholes in Scripture's clear and absolute opposition to homosexual practice. He and other homosexuals on this score have been about nothing if not arguing for loopholes on the basis of alleged technicalities and contending that certain texts in their historical and literary context are unclear when the arguments for such claims are weak indeed.

The entire effort by homosexuals who have advocated for the "authoritative interpretations" of 2006 and 2008 to permit homosexually active candidates to be ordained in spite of a strong constitutional prohibition in G-6.0106b has been about looking for loopholes through technicalities, but this seems not to bother Kincaid because his overall argument here is unprincipled. Kincaid does not regard the principle of searching for loopholes through technicalities as bad per se. For he apparently likes such a strategy when it serves his homosexualist interests. It is only when such a strategy comes back to bite him that he is opposed to it.

The "fidelity and chastity" clause in the *Book of Order* (G-6.0106b) is quite clear about the point that homosexual behavior is absolutely forbidden to officers of the church.

1. *The singling out effect in G-6.0106b as evidence for the essential status of the "fidelity and chastity" clause.* The very mode of expression in G-6.0106b makes it obvious that having sex outside "the covenant of marriage between a man and a woman" would violate an ordination essential. The text explicitly singles out from "among" "the historic confessions of the church" "the requirement to live either in fidelity within the covenant of marriage between a man and a woman ... or chastity in singleness." Now what would be the point of singling out this standard from among all others if not to highlight: "This one we really want you to abide by"? If the church had not intended some special significance to be given to this ordination requirement, if it had intended that some openness be given to ordaining homosexually active candidates, why did it bother to single out this requirement from among others? If it had not added this clause to the *Book of Order* homosexually active candidates would have stood a much better chance of being ordained. *Obviously, then, the requirement was added to make the prohibition of homosexual practice and other sexual offenses absolutely binding on all officers and candidates for office.*

The attempt to pass an “authoritative interpretation” which pretends that noncompliance with G-6.0106b is not a necessary barrier to ordination, that the “singling out” effect does not convey any essential character to the requirement, goes beyond a search for loopholes and technicalities to an outright lie about the text. There is no one who doesn’t understand the point of the singling out. Suppose a professor begins a course by telling students:

You are responsible for reading the specific requirements for this course in the syllabus and the general requirements in the student handbook. However, among all the rules for this course I want to make special mention of one: If you cheat on an exam or plagiarize a paper you will fail this course and be subject to the school’s disciplinary hearings, which may lead to your expulsion. So don’t even think about doing it.

Is there any student who, after hearing this, could reasonably argue that the rule about not cheating or plagiarizing was not necessarily binding? Obviously not. Yet that is precisely what the authors and strong supporters of the 2008 A.I. are arguing.

2. *There can be no doubt that it was the intention of the majority of the church from 1996 to 2002 to insert into the Constitution, and retain therein, the policy that unrepentant homosexual practice was a necessary barrier to ordination.* The history of the “fidelity and chastity” clause—how it came into the Constitution (*Book of Order*) and was twice reaffirmed by national presbytery votes—demonstrates clearly that it was the intention of the clear majority of the presbyteries not to allow knowingly any ordinations of homosexually active candidates. In 1996 the General Assembly approved by a 57% margin G-6.0106b, known at the time as “Amendment B,” and the presbyteries went on to ratify it in 1997 by a vote of 97-74-1 (56.4% for, 43% against). In 1997 the GA reversed itself, voting to change the language of G-6.0106b so that it would not limit sexual activity to a man-woman marriage. Yet presbyteries rejected the attempt to gut G-6.0106b and did so by a significantly greater margin than they had approved G-6.0106b only one year earlier: 114-59 (65.9% against deletion of G-6.0106b, 34% for). In 2001 the GA voted for an amendment to delete G-6.0106b and did so by a landslide vote of 317-208 (60.4% for, 39.6% against). Once again the presbyteries defeated the attempt to nullify G-6.0106b. This time they more than reversed the GA percentages with a whopping 125-46-1 vote by the presbyteries against the proposed amendment (72.7% against, 26.7% for). A lesson here is that General Assembly votes on sexuality have become increasingly unrepresentative of the will of most Presbyterians.

Every time that a vote on the “fidelity and chastity” provision took place, it was crystal-clear to both sides what the vote was about: whether to allow *any* ordinations of unrepentant, homosexually active candidates. Those who voted to affirm and reaffirm the “fidelity and chastity” provision in the Constitution over a period of six years did so with the understanding that it would make

unconstitutional the ordination of any persons who engaged in practicing, self-affirming homosexual behavior. I never met, or read of, a single person who at the time when he or she voted in favor of the “fidelity and chastity” provision thought that the provision gave each and every examining body the discretion to ordain homosexually active candidates. Not one.

The high court (GAPJC) has also affirmed this interpretation of G-6.0106b in a series of decisions over the last decade. For example, in the 2000 [Londonderry](#) case the GAPJC ruled that the sessions of Christ Church Presbyterian in Burlington, VT and Mid-Coast Church in Topsham, ME could not ordain to office persons involved in homosexual relationships because to do so “exceeds the constitutional bounds of freedom of conscience” (citing G-6.0108a). “There are no constitutional grounds for a governing body to fail to comply with an express provision of the Constitution, however inartfully stated.” Governing bodies must “comply with the express corporate judgment of the Church in an explicit constitutional provision” such as the “fidelity and chastity” provision in G-6.0106b.

Now if Kincaid were such a sincere stickler for not circumventing the national will of official Presbyterian votes through appeal to technicalities and loopholes, why wouldn't he view any interpretation of the new 2008 A.I. that attempted to subvert the clear constitutional intention of the Presbyteries as constitutionally invalid? The apparent answer: Although Kincaid pretends to be basing his view on a principle—namely, that the intention behind a denomination-wide decision be heeded even if the wording of the decision does not technically establish the intention—he really operates on an unprincipled basis. For when the principle suits his ideological fancy he adopts it but when it runs counter to his objectives he dispenses with it. Nor can Kincaid legitimately argue that the high court should respect *both* the intention behind the constitutional provision for sexual behavior in G-6.0106b *and* the intention behind the 2008 Authoritative Interpretation. For these two intentions are diametrically opposed—one absolutely forbids the ordination of persons engaged in homosexual practice, the other permits governing bodies to ordain homosexually active candidates on a case-by-case basis.

Nor does Kincaid have a principled choice to pick the intention behind the 2008 Authoritative Interpretation over the intention behind the sexuality standard in G-6.0106b. At several levels it is not possible to compare the two national votes as equal.

(a) Most importantly, *as regards their level of constitutional authority* there is no comparison. For a constitutional provision takes precedence over any “authoritative interpretation” that purports to interpret it but in effect attempts to change it. Changing the constitution requires not only approval of the General Assembly but also ratification by the majority of the presbyteries nationwide. It cannot be done by stealth; that is, by attempting constitutional change in the

guise of an “authoritative interpretation.” It doesn’t matter that the 2008 Authoritative Interpretation is a more recent vote than the votes ratifying and retaining the “fidelity and chastity” provision in G-6.0106b, inasmuch as *only* an amendment to the Constitution can change the Constitution, not an authoritative interpretation.

(b) *As regards the clarity of the text at hand* the two cannot be compared. The wording of the “fidelity and chastity” clause of G-6.0106b is quite straightforward in declaring that candidates cannot be ordained who do not confine their sexual intercourse to “the covenant of marriage between a man and a woman.” Yet, as we have seen above, the same degree of clarity cannot be said for the wording of the 2008 Authoritative Interpretation, which is quite oblique (it never even mentions anything about sexual practice). Moreover, as noted above, an interpretation of the 2008 A.I. which presumes that there are no identifiable churchwide ordination essentials is in conflict with the last clause of the A.I. itself, *and* with the very provision of the *Book of Order* that it purports to interpret, *and* with common sense (for it is absurd to argue that, in a connectional church like the Presbyterian Church, a presbytery or a session has the right to allow a scruple on any or every part of the *Book of Order*). In short, the wording of one text (G-6.0106b) is relatively clear and transparent while the wording of the other (the 2008 A.I.) is relatively unclear and contradictory.

(c) *As regards the strength of support for the text* there is no contest. On the one hand, the 2008 A.I. was approved by only a narrow vote, and that only of the General Assembly, where it is far from clear that the majority of persons voting believed that they were saying that there were no identifiable, churchwide ordination-essentials in the *Book of Order*, including the specific sexuality standard in G-6.0106b. On the other hand, the “fidelity and chastity” provision in G-6.0106b was approved and reaffirmed by a series of significantly larger majorities (the last time by a nearly three-quarters vote), and that not merely by a relatively small group of commissioners attending General Assembly but by a supermajority of the presbyteries nationwide. The strength of the support, as well as the series of votes nationally over a period of six years, speak to the clarity of the intention, for it is not likely that so many people over so long a period of time (and with so clear a text) were confused about what they were voting on.

So if Kincaid wanted to act in a principled matter on this issue he would have to *insist* that any interpretation of the 2008 Authoritative Interpretation of G-6.0108 that attempts to allow the ordination of homosexually active candidates in violation of the “fidelity and chastity” clause in G-6.0106b is unconstitutional and thus impermissible. But Kincaid has no wish to do this because doing so does not serve his homosexualist agenda. In this he shows himself to be not only logic-challenged but also principle-challenged. By what logic does Kincaid propose to insist on respect for the intention behind the 2008 A.I. while utterly disregarding the clearer, stronger, and more authoritative intention behind the

“fidelity and chastity” requirement in G-6.0106b? To use Kincaid’s own words about me, only an “excruciatingly tortured” logic.

To argue, as many homosexualists do, that because G-6.0106b does not explicitly call the “fidelity and chastity” clause in G-6.0106b an “essential” ordination requirement but ‘only’ (!) singles out this “requirement” from “among” all the other “historic confessional standards of the church” as something to which all candidates must conform is (again to use Kincaid’s own words directed at me) a classic example of “caring little about the spirit and instead looking for jots and tittles,” “quickly discarding grace and replacing it with legalism,” and arguing that “language technicalities are the means by which [a General Assembly] should ignore the intention of [successive, nationwide votes of the presbyteries].”

Kincaid closes by comparing my views to that of “obstinate children who look for loopholes in their parents’ wording,” for example by saying, “I know Mom said to stop hitting you, but she didn’t write it down.” This is, once again, a misrepresentation of my views. My view is not merely that the 2008 A.I. did not use the word “homosexual,” as Kincaid claims. My view is that the promoters of the 2008 A.I. produced a text that is so oblique, so convoluted, and so contradictory in relation to itself and in relation to the Constitution that it purports to interpret that construing it as permission to ordain homosexually active candidates should be rejected by the high court as unconstitutional and thus an incorrect construal of the A.I.

In Kincaid’s own illustration it is more accurate to say that he and other homosexualist ideologues are the obstinate children who refuse to take Mom’s original statement at face value (= the “fidelity and chastity” clause in the *Book of Order*) but instead attempt to “interpret” it in transparently contradictory ways (= the rationale attached to the 2008 A.I.) and then blame Mom for not taking at face value their own contradictory “interpretation.” It is difficult to convey the whole messed-up situation regarding the 2008 A.I. in a parent-child dialogue but at least part of it would look like this:

Mom to son: “I want to single out, among all the rules that I want you to obey, this one in particular: Don’t ever hit your little sister. Your father and I will handle the discipline here, not you. If you violate this rule you won’t be able to go on the camping trip with your Dad this weekend.”

Son walks off to deliberate: “I don’t think that Mom meant this rule to be more important than any other rule. You know, she also says that my bedtime is 9 PM but sometimes I get to stay up till 9:30 or even 10. So she must mean that I need to decide for myself on a case-by-case basis when I can hit my little sister.”

Son hits little sister. Little sister tells Dad.

Dad to son: "I don't think, son, that we can go on that camping trip this weekend."

Son: "But, Daaaaad, I was really looking forward to it. You *promised*."

Dad: "Sorry, son, but I promised to take you if you obeyed your mother. While we don't expect perfection, you broke an essential rule."

Son: "But, Daaaaad, she never used the precise word *essential* or added *no exceptions*."

Dad: "And she also never said that *there were no other exceptions to my promise*. More than one person can play that, game, son."

Mom didn't have to use the word "essential." She conveyed the rule's essential character by singling it out for special mention for the obvious purpose of stressing compliance. The same holds for the limitation of sexual relations by candidates and officers to "the covenant of marriage between a man and a woman" in G-6.0106b. Non-compliance with the plain meaning of language and refusal to heed semantic cues to meaning lead to a betrayal of common trust.

Hopefully the GA Permanent Judicial Commission will not take shelter under the unprincipled defense "we only take intention as determinative for meaning when it serves our interests to do so." Hopefully the GAPJC will start with the intention behind the singled-out "fidelity and chastity" requirement in the *Book of Order* (G-6.0106b) and from there rule against every attempt to change the Constitution under the false guise of an "authoritative interpretation."