

IN THE MATTER OF A FORMAL HEARING BEFORE THE BRITISH COLUMBIA  
CONFERENCE OF THE UNITED CHURCH OF CANADA RE: REV. KEVIN ANNETT  
AND COMOX-NANAIMO PRESBYTERY DISCONTINUED SERVICE LIST  
RECOMMENDATION

HEARD AT Vancouver, B.C. before a Formal Hearing Panel

Rev. K. Eleanor O'Neill, Secretary

Mr. Geoffrey H. Wilkins

Rev. E. Mollie Williams, Chair

Iain T. Benson, Esq., appeared for the Applicant, Comox-Nanaimo Presbytery

Rev. Bruce W. Gunn and Mrs. Margaret Annett appeared for the Respondent Minister, Rev.  
Kevin D. Annett

Dr. Jon L. Jessiman attended as Judicial Officer

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DECISION

This formal hearing was convened to determine whether a recommendation made by the Comox-Nanaimo Presbytery that the name of Rev. Kevin Annett be placed on the Discontinued Service List of the United Church of Canada should be accepted. The recommendation was made by the Presbytery on March 27, 1996 to the British Columbia Conference of the Church and the three members of this Panel were appointed to conduct the hearing and to reach a decision on the matter. At the same time, the Conference appointed Dr. Jon Jessiman as judicial officer to assist us and the parties in the conduct of the hearing. The recommendation, the formal appointments and the terms of reference for the hearing were all filed as exhibits at the commencement of these proceedings on August 28, 1996 at Vancouver.

The hearings have for the most part been held at St. John's United Church in Vancouver and have occupied in total some twenty-four hearing days. Final evidence and submissions were heard on March 4, 1997 and the panel reserved its decision in order that it could review the evidence and the argument heard over the course of the six months. As the consequence of the Presbytery's recommendation would be to remove Mr. Annett from the rolls as an ordained minister of the Church, this panel viewed the matter as a serious one and one requiring substantial proof that the recommendation should be accepted.

SOME FACTS

Mr. Annett is a 41 year old minister of the United Church who graduated from Vancouver School of Theology in 1990 and was ordained by the Church in May of that year while in his mid-thirties. He had previously graduated from the University of British Columbia with a Bachelor's degree in Anthropology and a Master's degree in Political Science. As is required of all new ordinands, he was settled on the Lyleton-Pierson pastoral charge in Manitoba and

Northwestern Ontario Conference that summer but the following February asked to leave. While he remained there until June, this is a shorter than usual period for a new minister in his first settlement. He applied for a position on the staff at the Fred Victor Mission in Toronto Conference and in the summer of 1991, he moved to that post in the City of Toronto and remained there for six months when he resigned and moved to British Columbia.

In 1992, he sought a vacant position becoming available at the St. Andrew's United pastoral charge in Port Alberni which is under the oversight of the Comox-Nanaimo Presbytery on Vancouver Island. Mr. Annett had consultations with the British Columbia Conference Personnel Minister at Vancouver, Rev. Arthur Anderson, in an endeavour to obtain his advice and assistance in securing an appointment or call. Evidence is clear that the minister's mother, Mrs. Margaret Annett, was also involved in those consultations with Mr. Anderson in attempting to secure the position for her son. Mr. Annett met also in Spring 1992 with the Joint Pastoral Relations Committee at St. Andrew's charged with making a recommendation concerning a new minister for the pastoral charge. Concerns were raised respecting his two short previous appointments, his resignation and departure from them. As a result of those meetings and consultations, it was recommended to the Comox-Nanaimo Presbytery that Mr. Annett be appointed for a one year period to the St. Andrew's United pastoral charge effective July 1, 1992 and that a review of the pastoral relationship be made prior to the end of that year.

The evidence was that while Mr. Annett would have preferred to receive a formal call from the pastoral charge, i.e. without time limit, he was prepared to accept the one year appointment in the hope that it would result in a call at the end of the one year period. He agreed to the appointment in writing on April 7, 1992. In fact, the pastoral charge issued a formal call to their minister the following February and the Presbytery approved its terms to be effective July 1, 1993. No evidence was presented to us of any formal or other review of the pastoral relationship made either by the Comox-Nanaimo Presbytery or the St. Andrew's pastoral charge prior to the issuance and approval of the call.

From this point chronologically, evidence presented by the minister and on behalf of the Presbytery did not agree in many respects. What is agreed however, is that Mr. Annett's ministry came to an end at St. Andrew's in January 1995, some two and one half years after his arrival in Port Alberni. He submitted his resignation in writing to the Presbytery on January 8th and the congregation asked the Presbytery to accept it, permitting him to take a leave of absence effective immediately, and to provide them with other pulpit supply. The Presbytery acceded to the requests and by the end of that January, he was no longer their minister and was placed under supervision by the same Presbytery. Mr. Annett and his family were permitted to stay in the church-provided home where they had lived until the end of June that year in order that the children could complete their school year and Mr. Annett could undertake some directed skill programs. The Church continued to pay his salary and other allowances until near the end of July 1995.

The evidence is that sometime subsequent to their departure from Port Alberni and relocation in the Lower Mainland in the summer of 1995, Mrs. Annett and their two daughters left the family home and they have lived apart from Mr. Annett since that time. Mr. Annett gave evidence that the separation was acrimonious and that there has been protracted civil litigation in the

intervening two years concerning the cause of the marriage breakdown and his rights to legal access to his two daughters.

The circumstances which led to the minister's departure from St. Andrew's were not the core of the issue before us; his continuation as a minister of the United Church was. Mr. Annett and his advocates consistently argued that it was necessary to review his entire but brief ministry from the time of his ordination in mid-1990 to the time of his suspension some four and one half years later, including the circumstances of his departure from Port Alberni, in order to determine his fitness to continue in ordained ministry. The Presbytery opposed this position arguing that these facts had already been determined by earlier proceedings in church courts initiated by the minister.

On January 23, 1995, in addition to terminating the pastoral relationship between Mr. Annett and St. Andrew's, the Presbytery placed him under supervision of the Presbytery Pastoral Relations Committee, directed that he undertake a program for the improvement of his pastoral skills and required that he undergo a medical, psychiatric and/or psychological examination by a qualified professional person. The minister appealed that decision to the British Columbia Conference on March 22, 1995 and beginning in December that year, his appeal was heard before an entirely different formal hearing panel. Mr. Annett, although he was the Appellant and the person who lodged the appeal, ultimately declined to appear before that panel but instead filed affidavits and other written materials. In a written decision on January 16, 1996, the three person hearing panel on behalf of the Conference dismissed his appeal.

Despite the argument of the Presbytery that evidence reviewing the same material before the appeal panel was not strictly relevant to the issue before us, we permitted some leeway to Mr. Annett and his advocates to present facts they felt were necessary to meet the argument of the Presbytery concerning his lack of fitness for ministry.

## THE HEARING

In total, five witnesses, all ministers, were called to give sworn testimony: four by the Presbytery and one by the minister who gave evidence himself over the course of nine hearing days. There were 165 documents entered as exhibits by the parties. Each of the witnesses presented by the Presbytery was examined in chief by its counsel, Mr. Iain Benson, and was exhaustively cross-examined by the minister and by his advocate. For the first thirteen days of the hearing, Mr. Annett appointed his mother, Mrs. Margaret Annett, as his advocate and at their request, we permitted them to share the tasks of examination and cross-examination as they argued it was necessary by virtue of their preparation. For the remaining ten hearing days, Mr. Annett revoked the appointment of his mother as his advocate and appointed instead Rev. Bruce Gunn, a United Church minister from Ahousat, then on leave, to act as his advocate. Mr. Gunn also took part in the cross-examination of some of the witnesses presented by the Presbytery and led his own witness, Mr. Annett, in chief.

However, Mr. Annett, followed by Mr. Gunn and Mrs. Margaret Annett, withdrew from the hearing prior to its conclusion, on the 23rd day, March 3, 1997, and just before his own cross-examination.

## THE LAW

The Presbytery makes its application under ss. 363 (f) and 366 of the Manual of the United Church of Canada which permits a presbytery to recommend to a conference the placing of the name of a member of the order of ministry on the Discontinued Service List. The effect of accepting such a recommendation is provided in the closing words of s. 366.

### 363 (f)

In the event that the member of the order of ministry refuses or neglects to take a directed program for the improvement of pastoral skills as mentioned in paragraph (d) ii., refuses or neglects to undergo a medical and/or psychiatric examination or refuses to supply the pertinent information as mentioned in paragraph (d) iii., or refuses or neglects to take a directed program for rehabilitation and/or training in some other vocation as mentioned in paragraph (d) iv., the Presbytery may recommend to the Conference that the name of such member of the order of ministry be removed forthwith from the rolls of Presbytery and Conference and be transferred to the Discontinued Service List. In such instances financial assistance shall be discontinued.

### 366.

Onto Discontinued Service List. The name of a member of the order of ministry may be removed from the rolls of Presbytery and Conference and placed on the Discontinued Service List by a decision of the Conference:

- a. at the member's own request when accepted by the Presbyter
- b. on recommendation of the Presbytery for one or more of the reasons indicated in subsection 314 (d); or
- c. as a result of having been found guilty of one or more of the failings indicated in subsection 363 © or having been convicted of a criminal offence.

Such person shall not be recognized as Ministry Personnel of the United Church of Canada, nor shall they perform the functions of its ordained or diaconal ministry.

Section 363 © refers to the following "failings" as beings "grounds" under section 366 for placing a minister's name on the Discontinued Service List:

- i. the effectiveness of a member of the order of ministry or person under Presbytery appointment;
  - ii. the failure of a member of the order of ministry or person under Presbytery appointment to maintain the peace and welfare of the church, or
3. a member of the order of ministry or person under Presbytery appointment who refuses to recognize the authority of Presbytery.

[the emphasis provided throughout these sections is ours to denote the relevant provisions]

In dealing with issues related to the termination of a pastoral relationship, the Presbytery is obliged to follow the procedures set out in section 071, and the earlier Conference Hearing Panel in dealing with the minister's earlier appeal found that the Presbytery had done this and had

properly acted under section 363 (d) when it made its decisions in January 1995. We will therefore not set out the provisions of that section as they do not directly affect the recommendation presently before us.

These provisions make it clear that a Presbytery has the right to recommend placement on the Discontinued Service List, that the recommendation is to be made to a Conference and that the Conference has the authority to accept or to reject the recommendation. However, in making its recommendation under section 366 ©, the onus of proof rests with the Presbytery that at least one of the "failings" provided for in section 363 © exists in this case. Subsections (a) and (b) do not to us appear applicable.

We have considered what measure or burden of proof should apply in a case such as this since the decision sought by the Presbytery will effectively terminate Mr. Annett's career in ministry (although he may apply for re-entry at a future date). The question is a serious one. The civil courts have given extensive consideration to the nature of the burden that is appropriate in circumstances similar to those before us. In such contexts the courts in this Province have said that standards such as "a preponderance of evidence" or "balance of probabilities" are inadequate and inappropriate. We agree. When a person's professional integrity is at stake and his/her right to continue to carry on his/her livelihood are at issue, the standard it is said should come closer to that of the criminal standard, i.e. beyond a reasonable doubt. At the least, very strong evidence supporting a high degree of probability must be present.

We have applied such higher standard to the burden of proof we have required of the Presbytery.

In addition, the procedures outlined in the Manual are administrative and disciplinary in nature and therefore the Presbytery and the Conference have a duty to act fairly. In this regard, we have kept in mind recent decisions of superior provincial courts in similar matters which have dealt with the responsibilities of the Church to abide by the principles of natural justice and the accepted rules of fairness in the application of its procedures. We have applied such rules and principles to the conduct of the Presbytery in reviewing its actions prior to this recommendation and to the process of the hearing conducted before us.

We are amply satisfied that the higher standard of proof has been applied to the findings we have made in this case and that the principles of natural justice and rules of procedural fairness have been applied equally to both parties.

#### SOME FINDINGS AND APPLICATION OF THE LAW

It would be appropriate also here to comment briefly regarding the weight that should properly be assigned to evidence placed before us. We have noted that

1. The testimony of all four witnesses called by the Presbytery was tested exhaustively in cross- examination by the minister and/or his advocates
2. Although we were advised that a large number of witnesses would be called by the minister to support his allegations, he alone took the stand on his own behalf,

withdrawing abruptly from the hearing before his testimony could be tested by cross-examination and without any corroboration, and

3. Both parties filed a large number of documentary exhibits which consisted of letters, statements, testimonials, sermons, minutes and the like, some written specifically for presentation at this hearing; in many cases the authors did not appear as witnesses and were not available for cross-examination.

We have kept such considerations before us as we reviewed the evidence and while much of the documentary evidence coincided with the sworn testimony, in a number of respects it did not.

Briefly put, the Presbytery has argued that:

1. Rev. Annett's ministry at St. Andrew's pastoral charge has placed him under the oversight of Comox-Nanaimo Presbytery,
2. It was obliged in 1995 to place him under supervision, to require him to take a directed program for the improvement of his pastoral skills and to undergo a psychiatric and/or psychological examination and ultimately, late in 1995, to suspend him from performing the functions of an ordained minister, and
3. While under oversight, he has demonstrated that he is unsuitable to continue in ordained ministry by virtue of one or more of the "failings" provided for under section 363 © of the Manual:
  1. his (lack of) effectiveness as a member of the order of ministry,
  2. his failure as a member of the order of ministry to maintain the peace and welfare of the church, or
  3. his refusal to recognize the authority of Presbytery

The minister has argued that he was and is an effective minister, that he has maintained the peace and welfare of the Church and that he recognizes the authority of his Presbytery when it is lawfully asserted.

The Manual offers little assistance in describing what is meant by "effectiveness" in ministry although it is sometimes associated with "fitness for ministry" or "suitability for ministry". The same might be said concerning a definition of "the peace and welfare of the church." The third category is less problematic and concerns recognition of the legitimately-exercised authority of this church court. Given that this is a church hearing, we approached this part of our task with a set of biblical and theological perspectives.

In order to serve as a Christian minister, one must be able to love God, love oneself and love one's neighbour. As Jesus taught, such love is at the heart of our faithfulness:

When the Pharisees heard that he had silenced the Sadducees, they gathered together and one of them, a lawyer, asked him a question to test him. "Teacher, which commandment in the law is the greatest?" He said to him, "'You shall love the Lord your God with all your heart, and with all your soul and with all your mind. This is the greatest and first commandment.' And a second is like it: 'you shall love your neighbour as yourself.' On these two commandments hang all the law and the prophets." Matthew 22:34-40 (NRSV)

Paul tells us in his writings to the early church how we are to live out these words of Jesus:

Love is patient; love is kind; love is not envious or boastful or arrogant or rude. It does not insist on its own way; it is not irritable or resentful; it does not rejoice in wrongdoing but rejoices in the truth. It bears all things, hopes all things, endures all things. Love never ends. 1 Corinthians 13:4-8 (NRSV)

All those who are called to ministry in the Christian church are called to live out love in this way. Paul also reminds the early church that Christians are called to work together with humility and gentleness in order that all the "saints may be equipped for the work of ministry", so that the church, "the body of Christ", will "build itself up in love."

I therefore, the prisoner in the Lord, beg you to lead a life worthy of the calling to which you have been called, with all humility and gentleness, with patience, bearing with one another in love, making every effort to maintain the unity of the Spirit in the bond of peace... The gifts he gave were that some would be apostles, some prophets, some evangelists, some pastors and teachers, to equip the saints for the work of ministry, for building up the body of Christ, until all of us come to the unity of the faith and of the knowledge of the Son of God, to maturity, to the measure of the full stature of Christ. We must no longer be children, tossed to and fro and blown about by every wind of doctrine, by people's trickery, by their craftiness in deceitful scheming. But speaking the truth in love, we must grow up in every way into him who is the head, into Christ, from whom the whole body, joined and knit together by every ligament with which it is equipped, as each part is working properly, promotes the body's growth in building up itself in love. Ephesians 4:1-3; 11-16 (NRSV)

Unfortunately, because Mr. Annett withdrew from the hearing prematurely, we were unable to question the biblical-theological rationale upon which he bases his own ministry.

## THE EFFECTIVENESS OF A MEMBER OF THE ORDER OF MINISTRY

(Section 363 © (i))

The role of a minister is a complex one. Therefore in reaching our decision, we considered a broad spectrum of factors relevant to the assessment of effective ministry; we determined that effectiveness should be evaluated in terms of the following three principal categories: pastoral skills, leadership abilities, integrity and willingness to be held accountable.

### A. Pastoral Skills:

A minister needs to demonstrate to the people among whom s/he serves that s/he is there to share his/her love. This needs to be done appropriately, with respect and humility. Although we read in letters (Exhibit 93) from a few members of the minister's first pastoral charge in Manitoba where he served his first year that he was "caring, compassionate, good at visiting and a welcome guest" in their homes, we also read in documents from his former parishioners at St. Andrew's United in Port Alberni that he was frequently abusive, arrogant, defensive and disdainful of others:

At the Fall 1992 meetings of the Outreach Committee, I spoke to Kevin about the problems with his ministry. In the meetings we spoke openly with Kevin present about his abuse of the good will of the congregation and about his method of handling food distribution, for eg. he regularly disregarded our decisions and directions, formalised on January 5, 1993, that emergency distributions of food, between the regular food bank monthly distribution days, should be limited to enough food for one day.....

In December 1994, for the committee looking at "Issues related to Food Bank", I wrote 'the outreach committee largely directed its energies to trying to make Kevin's personal initiatives palatable to the congregation, to trying to give the Food Bank some kind of structure and policies and to supporting our new pastor as he pursued his chosen path. There was a strong feeling that Kevin was going about it the wrong way, but that we should back him.'

There is no doubt that the hurt caused by the way Kevin handled the situation was intense. The most vivid memory I have of those weeks was of entering a small meeting held in the minister's study and witnessing Kevin regaling Jeannette with his brag that he had driven out the old guard. He was laughing and appeared to be delighted with his story. He recounted the way one person had left a meeting crying, and how other traditional (lay) leaders had lost face and power. It is totally accurate to say that he told all this with childish glee. Nothing in the events that followed was as upsetting to me as that incident.(Mr. Terry Whyte)

I am not sure of the exact date but I believe it was toward the end of 1993 that I first met Kevin and his family at a pot luck supper at the Opetchesaht Reserve. Shortly thereafter, I started attending St. Andrew's Church. I appreciated Kevin's leadership very much. He had a gentle way with the congregation; he was wonderful with children and he was an excellent story-teller which made for some of the best sermons I have heard.

In March 1994 the Official Board asked me to sit on the Session and shortly after Kevin asked me to be a member of the Worship Committee. I agreed to both and worked very closely with Kevin throughout that year.

What changed? Slowly, to me he lost balance or a perspective he once had portrayed. The food bank seemed to catalyze a troubled side to Kevin's leadership. I think that incidents coming out of his work on the food bank were my first indicators that (a) his judgment was not always sound, (b) he had difficulty including and directing different kinds of people in a common pursuit, © he had real problems coping with interpersonal conflict.

Instead of inspiring and calling people to this ministry, he became increasingly critical of anyone who was not like himself. He became very defensive. He became self-righteous. His sermons became repetitive and people began to complain that he was "beating them over the head" with his concerns of poverty. At the same time, he seemed uninterested in the social ministries that many of the congregation were already committed to that directly impacted on the poor of our community.

At a public forum on poverty in Port Alberni, I remember pleading with Kevin to treat the Mayor with due respect or there would be no hope of a favourable response to him. He argued with me



in public, basically saying she didn't deserve any. I was dumbfounded, especially because I had worked with her before on a famine response project and found her to be extremely helpful and compassionate.

A young woman and her little boy came to church one Sunday. The boy freaked out and screamed throughout most of the service. At the end, an angry older lady came up to the woman and asked her why she didn't leave when her boy was so upset. It wasn't a nice scene but we worked it out. The young woman returned many times and always had help with the boy after that. I was amazed, later, to hear Kevin describe that incident as a racist act and use it as an example of how the whole church dislikes native people. What I had seen as a behavioral problem that we could help take care of, Kevin saw as an eternally damning racial act. To me this was a sign that he was really carrying a chip on his shoulder and was definitely seeing the world through different coloured glasses than my own.

(Ms. Bernadette Wyton)

After much time, thought and prayer it is time for me to open up and share distressing feelings that I've carried for three years. First off, I am finally able to admit that I fear Kevin (and) what may result from me sharing my feelings openly. In the beginning, I really enjoyed his ministry, his family and welcomed new ideas and growth in our congregation....

As issues arose I became frustrated with lack of communication and actions taken that were not discussed at church meetings: things which come to mind are - open church buildings, many unregistered keys issued, code for the combination lock for the food bank written on the wall, frustrated secretary because she had no idea where Kevin was on many days (this was addressed and he began to check in), donations dropped off at the church for a Christmas Dinner of which St. Andrew's had not been informed. When I addressed some of these items, I was told by Kevin that my role as Chair of the Board was to run the Board meetings. As chair, I had tried very hard to take a neutral stand and listened to both sides of each situation and found myself acting as Kevin's advocate in many situations.

The question that looms before me "Do you see Kevin serving in a congregation?" And I have to answer that after what we have experienced at St. Andrew's, my answer is NO!

(Ms. Rosemary Ronalds)

His former supervisor, then Executive Director of the Fred Victor Mission in Toronto, states that the minister frequently manipulated the weak and the vulnerable:

From the beginning, Kevin's relationship with other staff was problematic and conflictual. He was not a team player, did not like staff meetings and at times was impossible to find or reach. I had indicated to Kevin that a few staff were skeptical about this project and a couple were hostile but there was a readiness to accept the idea of a community ministry and a willingness on the part of other staff to find ways of working out difficulties. He claimed he was not supported but he did not seem willing to accept the support he was offered or make any efforts to work with other staff.

His relationships with street people were entirely different. Quickly, he gathered a group of the most vulnerable people around himself; they thought he could do no wrong. Not long after his departure, most of these people seemed unmoved by his resignation. We learned gradually that he was giving out cash and goods to needy individuals (by using petty cash inappropriately) and making promises to them that were impossible to keep. While he had the rhetoric of "social justice" (which was this Mission's approach) he behaved in a traditional charity hand-out way. He had an incredible way of making vulnerable people feel entirely supported and others terribly guilty and uncomfortable. I understood the above behaviour as extremely clever and manipulative.

(Rev. Paul Webb)

In addition, throughout the course of much of these proceedings, Mr. Annett was verbally abusive toward a number of witnesses, contemptuous of their evidence and their faith positions when stated. This was particularly true with respect to Revs. Stiven, Stokes, Hogman and Thorpe who gave evidence before us on the witness stand. In some cases, they endured cross-examination which lasted several days. Similarly, with respect to Revs. Spencer, Anderson and others who were required by their offices to take part in earlier dealings with Mr. Annett or his mother, he was blatantly unkind and spoke in a derogatory manner concerning them, even though we cautioned him on the very first day of these hearings about such conduct.

#### B. Leadership Abilities:

In examining Mr. Annett's leadership skills and abilities, we looked for evidence of his "building up the body of Christ in love" that is, his commitment to strengthening the ministry of congregations with which he worked. As a witness before us, Mr. Annett expressed the belief that he has skills in conflict resolution, has empathy for others, is good at bridge building, and relating to and reconciling diverse groups. From the overwhelming weight of evidence which was presented to us, it is abundantly clear that these skills were sorely lacking during much of his short ministry, as they may have been even before his ordination:

Kevin spent between 10 and 20 hours with us each week from late September through December (1989). There was much about Kevin that impressed me.....

During the course of his time with us, I became aware of two aspects of his ministry style that I regarded as problematic. Both of these were discussed during supervisory sessions and I was left with the impression that Kevin appreciated the feedback, understood the concern, and would work at some behavioural changes.

My first concern was his tendency to be a "lone ranger". I mean by this that he would undertake certain projects - especially projects involving the poor or marginalized - without clearing it with either me or the appropriate congregational committee, or even trying in some subsequent way to involve the congregation meaningfully in the ministry. This meant that although some individuals in the community benefitted from his work for the time he was with us, follow up after he left was very difficult.

My second concern was Kevin's lack of patience with the normal decision making processes of the congregation. When the outreach committee, for example, was hesitant about some of his specific project suggestions, Kevin basically lost interest in working with them, even though working with them was one of his stated learning goals. Ironically, this meant that he alienated the group within the congregation who most shared his vision.

(Rev. Douglas Graves)

While at Vancouver School of Theology, Kevin was made aware of problems which got in the way of working relations with others; he was aware of his need to express his feelings more openly and to allow others to enter his life in a more intimate way; he was aware of some blindness in seeing the pain of those in typical middle class United Church situations and in the institution itself. There was also stated concern about how he could function as a prophet in the structural church with both challenge and compassion.

(Chaplain Marilyn Harrison)

We certainly did not ask Kevin to close the food bank, or cease working with people outside the church. People in St. Andrew's have had a long history of interest and involvement in ministries to the poor and those outside the church. In the years immediately prior to Kevin's coming, there was active support for the Bread of Life community soup kitchen, for Ten Days for World Development, Bridgehead products, native land claims issues and a discretionary fund for the minister for addressing some problems of those who came in difficulty. The food bank concept was welcomed. The problems arose as Kevin developed his ideas faster than he informed his congregation and then alienated those who volunteered to help with the food bank by giving out food in greater quantities and more frequently than it could be replenished.

Eventually, he also gave out the keys to our building to at least one food bank user so he would be able to get in whenever he wanted. The congregation still wanted to support a food bank outreach, and discussed many possibilities for doing this.... I personally experienced difficulty in discussing concerns with Kevin. Early in his time with us, I expressed my concerns regarding some details or organization of the food bank. I was immediately told that I had better watch out because I was considered to be a member of the "power group" of the church. I therefore backed off and resigned from my positions..... However, I continued to hope that we could develop a better way of discussing issues.

(Ms. Wendy Barker)

Kevin's sermons were often so far out that people would stand up in the pews and take issue with what Kevin said. Occasionally, someone would go to the front and make his/her statement from the pulpit. The speaker would be attempting to bring some balance to a discussion and deal with the hurt and anger being felt by most of the people in the pews. The process was very upsetting for many people, although I, personally, was pleased that members of the congregation showed this leadership and often spoke so wisely and eloquently.

Kevin typed his sermons and had them copied so one could pick them up at the service. They did not accurately convey what he actually said in the sermon period. Many times, I picked up a copy to look for the stuff I had just heard, but it was not there. The sermons as distributed were much less extreme than the materials spoken from the pulpit....

I remember the determination I felt to work with the others who were concerned about pastoral care and C.E. (Christian Education) especially. Kevin did not provide normal clergy support, and in fact devalued and put down the congregation weekly, in the sermon period. Kevin spent his time doing exactly what he wanted to and accepted no direction from the congregation.

(Mr. Terry Whyte)

On the whole of the evidence, it is our finding that the minister lacks essential leadership qualities and skills necessary for effective ministry within the United Church of Canada.

#### C. Integrity and Willingness to be Held Accountable:

We have reviewed in entirety the evidence given from all sources concerning the minister's personal character in an attempt to be both accurate and fair in our assessment of his ministerial fitness or effectiveness. In doing so, evidence from a large number of persons helped us to form an image of the minister, an image which became better focused for us as we observed him on the witness stand. We have viewed his conduct in this connection under three separate heads.

##### (i) Veracity:

In many respects, Mr. Annett's recollection of events, of conversations, of meetings and of the conduct and actions of others was contradicted by evidence from two or more others and by records and documents evidencing such meetings and events. In some instances, what witnesses under oath or in documents outlined as facts are exactly the opposite of what the minister has said occurred. It is clear that in some instances, his evidence was affected by what he felt portrayed his role, his actions and his ministry in a more favourable light than what in fact took place. Whether this was honest forgetfulness on Mr. Annett's part or whether in fact he has distilled truth in a different way from similar facts, we are not certain. In most instances, we have found the recollection of others to be more accurate and preferable.

As an example, while under oath Mr. Annett spoke of the time when he was actively engaged in preparation for ministry. During his testimony, he said that no one in authority ever questioned his call to ministry or suggested that there was any reason why he should not be ordained. Rev. Doug Graves, his field work supervisor at South Hill United, and Marilyn Harrison, United Church Chaplain at Vancouver School of Theology, indicated in statements from which we have already quoted that each of them informed him of some concerns about his effectiveness during his candidacy process. Mr. Annett said that nothing of significance was raised at any of his candidacy interviews by his sponsoring congregation, First United, Vancouver-Burrard Presbyterian or the British Columbia Conference.

In contrast, Rev. Jim Hillson, states:

During the years approximately 1986 to 1990, I was a member of the Education and Students Committee of Vancouver-Burrard Presbytery. This committee has responsibility for screening and supervision of candidates for ministry and Intended Candidates. During those years the committee met with Kevin on several occasions in connection with his candidacy. I have a very clear and distinct recollection of my last meeting with the committee at which time we interviewed Kevin. The committee was considering whether or not to recommend Kevin for ordination by British Columbia Conference. We had before us some of the normal materials which support an application for ordination, including a quite lengthy "ministry statement." Missing from this material was the expected application for ordination.

I recall being quite dismayed by the ministry statement. This statement went on for 2-3 pages with very strong criticism of the United Church of Canada. Kevin indicated his view that the main mandate of the Gospel of Jesus Christ was to stand with and advocate on behalf of the poor and marginalized of society. Kevin accused the United Church of failure to fulfil this mandate. As I recall, the statement concluded, "So why do I want to be a United Church minister? I don't know."

I recall saying to Kevin: "You have not submitted an application for ordination. You have given us a ministry statement which is very critical of our church. And you conclude that statement indicating that you do not know why you want to be ordained. It seems to me that this committee should give you time to consider your position on these things and invite you to see us in a year's time."

I recall Kevin being quite taken aback by my suggestion that his ordination should be postponed for a year, and pleading that he was ready to be ordained and really wanted to proceed this year. I told Kevin that I would not be able to vote in favour of his ordination at this time.

(Rev. Jim Hillson)

(ii) Respect for Others:

As we have noted elsewhere, Mr. Annett has frequently shown a lack of tolerance, at times actual disdain, for those with whom he was charged to work in the vineyards. Often they have been lay-persons, in congregations and elsewhere, but this lack of respect for others has also been shown equally to those who labour as his colleagues in ordered ministry. He has been abusive of those with whom he does not agree, especially if they are office-holders or are in positions of authority. As Mr. Whyte reported, Mr. Annett bragged that he had ousted "the old guard" at St. Andrew's. In another instance, Ms. Wyton recalled:

When the M&P controversy came up later on, I was horrified to hear Kevin talk of the committee members as though they were evil, conniving, power hungry villains. To me, Fred Bishop (the chair), in particular, is a walking saint. When I asked Kevin point blank if he could say all of those things about Fred, he had no reservations. Then I knew, without a doubt, Kevin had a serious problem that was out of control. Kevin's letter of resignation was bizarre and irrational. I asked him how he could say that working with us jeopardized his personal and spiritual integrity and then closed by saying that he'd be with us for another six months. He said

he needed the wages. I couldn't see where his argument for integrity stood up when money took the upper hand.

(Ms. Bernadette Wyton)

Over the course of the last few years, Mr. Annett has made it very clear that he had little respect for the United Church of Canada and the people who make it up. In an article written by him for the UBC student newspaper, the Ubyyssey, and published at Vancouver on Tuesday, February 27, 1996, he writes:

I tried to stop my daughter's tears and answer her sobbing question: "Daddy, why can't I go to Sunday School anymore?" But I couldn't. Neither could I stop the lies being spread about me, recover the job stripped from me in an instant, or reopen the foodbank that was feeding many children just like my daughter before my church board closed it in the dead of winter. All of this evil had been done to we, the unsuspecting, the innocent, the vulnerable.

Sitting next to little Clare, I was as helpless as she was. I was her father, born to protect and comfort her, and yet I could do neither. We huddled together, daughter and father, victims of people who call themselves "Christians." People who probably slept soundly that night, after the holocaust they had unleashed. Clergy are trained to be the scapegoat for everyone else's problems. We harbour a perverse self righteousness at being able to bear all blame and anger of our congregation, and still survive to the end of a week. But we don't survive. Eventually, we are offered up, like any scapegoat, as a sacrifice to placate the hungry crowd.... Perhaps if this had happened in any place but a church, we would have endured it better. But the trauma we have suffered comes from being stepped on within the "church of Jesus Christ," where everyone talks about love. It is a sick joke and a nightmare to me. So what must it be like for my children, to their unprotected hearts? What kind of people would put my children through such hell? Not the kind that I want my family associating with, or confusing, with actual Christians."

(Rev. Kevin Annett)

The minister last summer subsequently wrote in the newsletter of the Ministers' Mutual Aid organization, cited hereafter, that "My closest definition of evil is that which causes blind destruction; by this measure, the United Church of Canada is an evil institution." (Exhibit 161)

We observe that on the one hand, Mr. Annett seems anxious to remain in ministry in the United Church, while on the other hand there is much evidence of his antipathy toward United Church people. During his preparation for ordination, it would appear that he felt positive toward the church, both from his involvement in congregations and at Vancouver School of Theology (he found it to be "an institution committed to social change.") In the years that followed his ordination, his attitude has obviously changed as noted by one observer:

Kevin's leadership deteriorated very quickly in the Fall of 1994, culminating in his letter of resignation.... Near the end of the meeting (a congregational retreat), Kevin started describing how unhappy he was with the United Church. He said he felt like a prostitute working as a minister in this church. He talked about leaving. I was very upset and asked him why he was

saying these things. He began an amazing story about his work in Toronto - a story full of heavy allegations against the church...of crime, corruption, abuse and misconduct. I remember saying "Kevin, either you're insane or there's something very wrong with the United Church.' I asked that he lay the story out for me in detail with (his wife) Anne present, at least as another witness for me. We set up a meeting but Anne did not come. Kevin said she had nothing to do with any of his work back there. I found that very strange. I also found it strange, regardless of the ultimate truth behind the story, that both Kevin and the Church continued in silence as though nothing had happened. It just didn't add up.

(Ms. Bernadette Wyton)

In a further article published in the Ubyyssey while these hearings were still in session, Mr. Annett describes the hearings thus:

Crammed into a United Church lounge in the West End, the hearing begins with prayer, naturally. The formalities must be observed after all and the words are so easy to mouth: "justice, guidance, love and forgiveness.' I suppose even Richelieu and his Inquisitorial buddies prayed for their tortured victims.

(Rev. Kevin Annett)

Despite this Panel's caution to all witnesses to refrain from speaking with the public media who were present during the course of this hearing, on a number of occasions Mr. Annett ignored this repeated request and the proceedings were frequently delayed until he returned to the hearing room and the hearing could proceed.

(iii) Willingness to be Held Accountable:

We note that Mr. Annett refuses to be accountable for his actions. This does not appear to be new at St. Andrew's or Comox-Nanaimo Presbytery. Both the former Executive Director of the Fred Victor Mission and its former Board Chair found this to be true.

Kevin began work in late July 1991 and resigned early in 1992, near the end of this initial six months. Almost from the beginning of his work there were problems. Since Kevin was new to the church and community in Toronto, I suggested that he use the time while I was on holidays in August to get to know the inner city.... When I returned to the office, I discovered that he had done little in getting to know the larger church and community, but he had already gathered a group of street people around himself and declared he had a group of four people who were asking for a church service. I told him there was no rush to start services; it was more important to develop a larger core group first....

I have outlined these early developments in some detail because they indicate problems in Kevin's willingness to accept supervision and direction. I set up regular supervision times and asked him to prepare agenda/materials in advance of our meetings, but problems continued.... About a month before his initial six months' probation was up I set up a meeting for an evaluation and outlined a process for that meeting. That meeting had to be postponed, if my

memory serves me correctly; he called in sick the day of the proposed meeting. It was rescheduled for early January after his return from Christmas holidays in B.C. Before that meeting took place, Kevin resigned and copied his letter to the Chair and members of the Fred Victor Mission Board. Later he sent a lengthy, nasty letter to members of Toronto South Presbytery. The Board Chairman, Paul Mills, and I met with Kevin; basically the Chairman warned Kevin that his behaviour was only harming himself and causing more problems for his future career.

(Rev. Paul Webb)

And in a letter to Mr. Annett, the Fred Victor Mission Board Chair, Mr. Paul Mills, Q.C. in 1992 wrote:

The underlying theme of your entire letter is that you are the only person who understands what urban ministry is all about. It seems to me that you have totally lost sight of the fact that you were hired by the Mission to perform a job which had a job description which you chose to ignore. I reject your suggestion that you strove to be honest and direct throughout your time at the Mission. On the contrary, from everything which I have been told, you were less than honest and direct in your dealings with Paul Webb and other staff members.... I am sorry that you feel that you have been wronged. In my view, you chose to ignore your job description and you refused to accept any direction from your supervisor, Paul Webb. A decision had been made to terminate your employment at the end of your probationary period. But your resignation made such termination unnecessary.

(Mr. Paul Mills)

While Mr. Annett has repeatedly spoken of his being "fired", "dismissed", "summarily removed" or "deposed", the facts show that he resigned from St. Andrew's United Church shortly after he attempted to have the entire Ministry and Personnel Committee removed from office. The panel believes that in this instance, Mr. Annett was once again trying to avoid being held accountable. Rather than accept any responsibility for the breakdown of the pastoral relationship, the minister blamed others for what went wrong (Exhibit 33):

To the Congregation and Official Board of St. Andrew's United Church  
and Comox-Nanaimo Presbytery:

For the sake of my personal integrity, before God and the community, it is necessary for me to resign as minister of St. Andrew's United Church. Particular actions of a highly unethical nature by the Ministry and Personnel Committee of the church, and the condoning of these actions by the Official Board, makes me unable to perform my duties in association with these bodies and retain my professional and spiritual integrity....

(Rev. Kevin Annett)

The minister had accused the members of the Ministry and Personnel Committee of threatening his position at the church and that they (or the Presbytery) had widely circulated notes kept at a



December meeting of the committee. The evidence we have accepted is that no such threats were given to the minister and that while notes were maintained by one of the committee members, they were not circulated, save to the Conference Minister, Rev. Bill Howie, and were not made public until when, during the course of the hearing and at the minister's request, counsel for the Presbytery secured them from the committee, produced them and they were marked as an exhibit. We prefer the consistent evidence of Revs. Stiven, Stokes, Spencer, Anderson and the members of the Ministry and Personnel Committee on this point and do not accept the evidence of Rev. Annett.

At a January 1995 meeting of the Official Board just prior to his formal resignation, Mr. Annett moved a motion that the Ministry and Personnel Committee be removed. The official minutes of the meeting record that it was not seconded and the motion was lost. Further in his resignation letter, he says:

To have simply replaced the M&P committee would have avoided both of these fundamental problems. But in the eventual decision of the Board and Presbytery personnel, supporting the M&P members took precedence over ethics and support for the minister, and of any person sharing confidences with the M&P body. In short, loyalty to particular individuals rather than just or ethically proper action was ultimately more important to, and governed, the leading church bodies of St. Andrew's including Presbytery. This summary reveals that St. Andrew's United Church does not operate on a consistently ethical or principled basis at its official levels, but rather according to particular loyalties and arbitrary behaviour. No minister should be expected to tolerate such a situation, nor give credence to such damaging behaviour by associating himself with it. Ethically, therefore, I have no choice but to resign, particularly in light of the continued refusal of (the) Board or Presbytery to correct this wrong.

(Rev. Kevin Annett)

(underlining emphasis is that of the original author)

The minister subsequently offered other and different reasons for his resignation from St. Andrew's which differ from this position taken in January 1995. From the evidence placed before us, it is clear that he attempted to avoid accountability in his position at St. Andrew's, as he did in the face of the earnest attempts by Comox-Nanaimo Presbytery to hold him accountable and as he also did at the Fred Victor Mission.

Despite allegations made by Mr. Annett, we found that the people of St. Andrew's have long had a tradition of attempting to live their understanding of the social gospel, of reaching out to the poor and disadvantaged in their community and of sincerely attempting to be inclusive of First Nations members. No evidence tendered to us recorded any attempts on the part of the pastoral charge, Presbytery or the Conference church to "cover-up" facts surrounding the period of the operation of the federal residential schools on Vancouver Island. Evidence which was submitted indicated that the RCMP police were following up every allegation of wrong-doing with the full cooperation of church officials. Statements from police indicated that no murders had been uncovered and that this information has been reported publicly.

On March 3, 1997, as the hearings in this matter were about to resume after an adjournment of one month, Mr. Annett did not wait for our Chair to open proceedings before dropping copies of what is termed a Public Statement in which he expresses his reason for leaving these hearings. At this stage in the hearing, we were about to rule on a very serious allegation by the minister concerning the role played by the judicial officer and a motion by Mr. Annett that he be removed. We were about to move to Mr. Annett's cross-examination by counsel for the Presbytery. In this submission, he indicates that he has no respect for the work of the panel and, in short, would not submit to any accountability for his actions. At this point he seeks now to blame the judicial officer and this panel for his situation. This would seem to be a pattern.

I wish to share with all of you the reasons why I am unable to continue condoning or participating in the de-listing (sic) hearing through which I, mistakenly, hoped that justice for my family, for myself and others could be gained. I do so by acknowledging the individual sincerity of panel members who are, unfortunately, caught up in a regime of moral madness that is continuing the abuse and un-truthfulness that I and others have experienced at the hands of an element of the leadership of the United Church in B.C.... Accordingly I consider the entire hearing to date to have been irredeemably flawed, biased and improper. The consistently partisan nature of the panel's comments and rulings, which we have documented as having been prejudicially in favour of Presbytery in over 80% of occasions, is a concrete example of the biased impropriety of which Mr. Jessi-man's involvement in the hearing is the most blatant embodiment.

Since I believe and have experienced that the present hearing is consistently improper, biased, and flawed in the extreme, I have no recourse but to appeal its procedure and conduct to a civil court, and call for a judicial review of its proceedings. Until such a review is made by an impartial, external body, I consider the de-listing (sic) hearing to be illegitimate, and I feel personally absolved from participating in it...

(Rev. Kevin Annett)

## FAILURE TO MAINTAIN THE PEACE AND WELFARE OF THE CHURCH

(Section 363 © (ii))

It has been argued for Mr. Annett that he demonstrated skill and dedication in his ministry at St. Andrew's and specific reference has been made to his vigour in getting to know his new congregation, his openness to trying new ideas in worship, his concern for social issues, etc. We have kept such matters in mind as we considered two critical questions: What was the overall health of the congregation at the time of his resignation? and, Where did responsibility for that lie?

Very extensive evidence was offered us on the first, and it is clear that by the end of 1994, i.e. roughly two and one half years after Mr. Annett's initial assignment to them, the St. Andrew's pastoral charge was in crisis. Almost without exception, the relevant testimony and exhibits have spoken of confusion, demoral-ization, division, lack of leadership and organizational disarray.

Certain personal strengths were cited on Mr. Annett's behalf, e.g. conflict resolution skills, empathy for others, skills in bridge-building, his ability to relate to and reconcile diverse groups. Several exhibits filed are illustrative of these. While they were submitted by persons who generally were not United Church members of the pastoral charge or regular St. Andrew's worshippers, these attributes may well have been apparent to some during 1992 - 1993 when he was under his initial appointment.

We conclude however, that soon after accepting the call in 1993, Mr. Annett became increasingly alienated from a large number of members of his pastoral charge, including many who had been most instrumental in his original coming to St. Andrew's and who had remained supporters during his first year. It is evident to us that the changed relationship arose primarily from changes in how Mr. Annett conducted his ministry, and in particular, his growing reliance on his position as minister to advance a vision of ministry, and a timeline, about which many members remained at best unconvinced. Despite what Mr. Annett has said to us about his commitment to the collegial process, the bulk of the evidence describes a ministry which had become increasingly preoccupied with agendas to which only the minister, a minority of the pastoral charge and some adherents and interested parties in the community could cheerfully subscribe. The vision of what St. Andrew's ministry should be became very much his own and almost exclusively under his direct control. It is evident that Mr. Annett increasingly gathered the reins into his own hands, operating through those who were amenable to his direction and substantially ignoring the duly elected officers of the charge.

In sum, we find that from roughly the end of his first year until the time of his resignation from St. Andrew's, Mr. Annett's ministry became increasingly autocratic, manipulative and coercive. Not surprisingly, this alienated the duly constituted leadership and a substantial portion of the sustaining congregation - precisely those whose support was needed if the social outreach initiatives envisaged by Mr. Annett were to prove successful over the long term. More seriously, Mr. Annett should have recognized the potential damage to the pastoral charge of the approach he had adopted. If he was indeed aware of the danger, he appears to have been dismissive of it.

Similarly, it is our conclusion, both from the documentary evidence and from his own testimony, that Mr. Annett remains unwilling to concede in any forthright way that he and his ministerial style are even a part, let alone what are primarily responsible for the dysfunction so apparent by the end of his time at St. Andrew's. As we have already noted, we found this reluctance to accept responsibility and a related readiness to blame others to constitute a recurring pattern.

Given these and other areas of weakness, it is clear to us that by the time of Mr. Annett's resignation in January 1995, the situation at St. Andrew's had deteriorated to the point where the problems were well beyond his ability to resolve, and we believe his decision to resign to be an implicit acknowledgement of this.

As noted earlier, this section of the Manual also bears on Mr. Annett's relations with the wider United Church of Canada, the denomination in which he is presently seeking to maintain his ordained status. As noted earlier, on a number of occasions and for a considerable number of months, including during the course of this hearing itself, Mr. Annett offered denigratory public comments about the United Church, its officers, its courts and its procedures, his statements

appearing in both print and broadcast media. In addition to his conduct before us, a number of such items from the print media were submitted to us as documentary evidence of his conduct and views.

We accept that United Church ministers and members have a right to make public comments about the church. The United Church has a history of forthright self-criticism concerning theological, doctrinal and other positions adopted by the General Council and other church bodies. Prime examples are two which were submitted to us (Exhibits 90 and 164) concerning formal apologies which have been made to aboriginal Canadians by the General Council in 1986 and by the Board of St. Andrew's United Church in 1997. Nevertheless, a number of exhibits entered before us, mainly in Mr. Annett's own words, or at least not subsequently disavowed by him, appear clearly calculated to cause harm to the United Church and to bring it into disrepute. We conclude that these are contrary to the maintenance of its peace and welfare. To illustrate:

From a press release dated December 13, 1995:

The United Church has taken food from hungry kids and has thought nothing wrong about it. They may even have covered up murders. They've lost their soul as a church, and are serving themselves. Jesus would be sick if he could see all this. Maybe my fast will help change this evil in the church.

(Rev. Kevin Annett)

From a press release dated May 24, 1995:

"There are a lot of skeletons in the United Church closet, quite literally," says Kevin. "At least three children were killed in the Alberni and Ahousat schools, and probably more. We'd like to know where their bodies are, and how the church got away with murder for decades."

(Rev. Kevin Annett)

From an article under Mr. Annett's name in the Anvil, dated Summer 1996:

My closest definition of evil is that which causes blind destruction; by this measure the United Church of Canada is an evil institution. In just over one year, this denomination has robbed me of my job, community career, and family - for no apparent reason....

There is something very evil and sick at work within the United Church. Native people have been telling me this for years, especially those who witnessed rapes, beatings and murders in the United Church-run residential schools on the west coast. Now I know the pain of our First Nations victims. I too am abused without cause; I too have seen my children taken from me.

My tears have all but ended, leaving a deep resolve and strength in me - to confront the evil and bring justice out of this terrible wrong. I will not stop until those who have done this damage to my family and I, and to so many silent people, are made to make full restitution to me, and to others.

(Rev. Kevin Annett)

In summary, after reviewing the relevant evidence, we are satisfied that the principal responsibility for the critical state of affairs at St. Andrew's United in late 1994 was that of Mr. Annett. In addition, we believe that his use of the media was substantially calculated to promote his own position, to harm the United Church and to bring it into disrepute. We are satisfied that there is ample evidence to conclude that Mr. Annett failed to maintain the peace and welfare of the church as provided in section 363 © (ii), both in terms of its application to the pastoral charge of St. Andrew's United Church, Port Alberni, and to the United Church of Canada itself.

## REFUSAL TO RECOGNIZE THE AUTHORITY OF PRESBYTERY

(Section 363 © (iii))

In his submission on behalf of the Presbytery, Mr. Benson has argued that Mr. Annett is unfit for ministry in the United Church of Canada, asserting that he refused to accept any supervision or scrutiny of his ministry, and that he has shown contempt for the processes of the church courts. In addition to addressing the case presented by the Presbytery, Mr. Annett and his advocates have also argued: (1) that the Presbytery has been motivated by considerations which had little to do with his "fitness" as a minister, and (2) that its procedures around and subsequent to his departure from St. Andrew's were flawed.

Presbytery periodically objected to the second of these, taking the position that that particular matter had been dealt with by the earlier Appeal Formal Hearing Panel which rendered its decision in January 1996. The Conference by that decision has already upheld the validity of the January 1995 decisions of the Comox-Nanaimo Presbytery and dismissed Mr. Annett's appeal and criticism. However, having been assured by Mr. Annett and his advocates of the relevance of those proceedings to the matters before us, we permitted some evidence and argument on this point. Nothing we have heard leads us to question the propriety or correctness of the decision of the Appeal Panel. The Presbytery's subsequent action to suspend Mr. Annett and its attempts in 1996 to have him comply with the requirement for a medical examination or assessment would not constitute in our judgment reasonable grounds for his disregarding its authority under section 363.

On his first argument, it was suggested to us that in its dealings with Mr. Annett, the Presbytery was motivated by animus over his emphasis on social and native ministry, and more specifically his criticism of the church's record in those two arenas. It has also been suggested to us that as a result of this animosity, the pastoral charge was influenced by officials of the church against Mr. Annett. We find that the evidence placed before us does not support these arguments in any way and we are unconvinced that the Presbytery acted from any motive other than a concern about Mr. Annett's effectiveness as minister to St. Andrew's United Church, Port Alberni. Indeed, we find from the evidence given to us by Revs. Stiven and Stokes that the Presbytery was and still is genuinely concerned about Mr. Annett's state of health.

After considering what has been argued before us on these points, we find that:

1. the requirements imposed by the Presbytery under section 363 (d) (ii) and (iii) were clear,
2. these requirements were proper;
3. the requirements were communicated to the minister clearly and unequivocally;
4. particularly during the period of the work of the Commission, the Presbytery made appropriate provision for consultation and interaction with the minister and was prepared to consider his suggestions as to how the requirements might be made more suitable for him; and
5. Mr. Annett consistently attempted to circumvent these requirements

through passive resistance (delay, failure to respond, failure to attend, etc.);

through semantic distortion (as in changing the Presbytery's "assessment" to "mentoring"), and

through attempts to shift the focus away from the difficulties in his own ministry and onto unfounded charges of racism, murders, land grabs, etc. and against other individuals who have played any role in the unfortunate events of January 1995 and what has followed, by blaming the Presbytery and the United Church of Canada.

Finally, we note that in a letter of December 18, 1995, the minister was warned by the Presbytery that failure to comply with its lawful directions would raise the possibility of his placement on the Discontinued Service List (Exhibit 25).

We do not accept that there were grounds justifying Mr. Annett's refusal to comply with the directions of his Presbytery and, on the evidence presented it is our conclusion that Mr. Annett did indeed clearly refuse to recognize the authority of his Presbytery as provided in section 363 © (iii).

For the reasons we have set out, and based on the overwhelming evidence before us, we have concluded that this is an appropriate case to require the removal of the name of the minister from the rolls of his Presbytery and the Conference and the placement of his name on the Discontinued Service List. The Presbytery did not request an order for its costs of this lengthy hearing nor did it ask for any other remedies under section 075; thus, none will be ordered.

We must at this point express our appreciation to the judicial officer, to counsel, to the advocates, to the witnesses and those others who have contributed in the search for truth in this case, for their assistance has been immeasurable.

## ORDER

Accordingly, we order that the name of Kevin Daniel Annett of Vancouver, British Columbia, shall be removed from the rolls of Comox-Nanaimo Presbytery and British Columbia Conference forthwith and placed on the Discontinued Service List and he shall hereafter not be recognized as a minister of the United Church of Canada, nor shall he be permitted to perform the functions of its ordained or diaconal ministry.

DATED at Vancouver, B.C.

May 14, 1997 Members of the Hearing Panel

## ANNEX TO DECISION

### THE APPLICATION

On the 22nd day of hearing at the close of the day, Rev. Gunn made an application to have the Judicial Officer removed alleging that he had exhibited bias against the interests of his client. As the hearing was about to adjourn for one month due to the anticipated absence of one of the panel members, we asked Mr. Gunn to put his application in writing and later provided a schedule whereby the parties might exchange submissions on the issue during the adjournment. We indicated that we would thereafter consider the submissions and be prepared to make a ruling when the hearing re-sumed on March 3rd.

The Judicial Officer also offered to stand down and to remove himself from the hearing altogether rather than cause difficulty for any of the parties. He further indicated that he would withdraw if there was, in our judgment, any apprehension of bias in the way he has conducted himself either during this protracted hearing or prior to the commencement of the hearing itself. We declined this proposal although he did so effectively following adjournment on January 27th until after we had made our ruling and when he was invited to return. Immediately the hearing resumed on March 3rd, as has been mentioned in our Decision, the minister and his advocate delivered to us a prepared press release and withdrew from the proceedings, even before the panel had announced its ruling. After their abrupt departure, we made our ruling on this issue and three other matters raised by Mr. Gunn and the transcript will record the decision of those other interim issues. As to the matter of alleged bias on the part of the Judicial Officer, our Chair said this at that time:

"Thirdly, as to the application made by Reverend Gunn that the judicial officer stand down by virtue of bias, I will say that the panel has taken the precautionary step of securing the opinion of independent legal counsel on the position taken by the parties on this matter.

We are satisfied that no bias and no reasonable apprehension of bias exists and no case for natural justice concerns has been made in the argument which has been filed on behalf of the minister in this instance.

We will provide our written reasons for this decision at the conclusion of the hearing before us and they will be made available as soon as possible at that time. In the result, we do not accept Dr. Jessiman's invitation that he stand down and we reject the application made by the Reverend Gunn."

These are those written reasons.

### THE REASONS

Rev. Gunn's application to have the judicial officer removed is based on alleged bias or apprehension of bias against his client, the minister. It is opposed by counsel for the Presbytery. We requested the application be put in writing outlining the grounds and provided a timetable for the party opposite to respond. A further opportunity was provided for Mr. Gunn to reply. Those directions are contained in Exhibits 139 and 140.

Mr. Gunn's submission of February 19th has been marked as Exhibit 137 and Mr. Benson's response of February 26th is Exhibit 138. Mr. Gunn chose not to file a reply. We also had as Exhibit 136 a written outline of facts setting out his involvement in the entire matter provided by the judicial officer to all parties dated February 14th.

Without the assistance of the judicial officer for obvious reasons, we sought legal advice from competent, independent counsel in Vancouver experienced in such matters but unconnected with this hearing or with these parties or with the United Church of Canada. That independent counsel has also reviewed with us the current legal authorities applicable to this application. In following that advice, we dismiss the application made on behalf of the minister.

#### Bias and the Role of the Judicial Officer

At the outset, it needs to be pointed out that the allegation of bias is not made against one of the panel members, but their legal counsel. He is not the presiding official in these proceedings nor is he responsible for making or contributing to the making of the decision on the application made by the Presbytery to the Conference to place the name of the minister on the Discontinued Service List. His role has been defined from the outset to all parties and, in our view, he has strictly followed that role throughout these proceedings.

We are completely satisfied on the evidence that his role and his actions from the outset of the filing of the application by the Presbytery have been to provide assistance to the panel on procedural, evidentiary and other legal matters that may arise in the proceedings. He has also provided such assistance to the parties prior to and during the course of the hearing itself although it is obvious from what we have seen and what has been required that the assistance has primarily been to the minister and his advocates. From our own observations, Dr. Jessiman has been generous in the time, skill and expertise he has allocated to Mr. Annett and his advocates both in their preparation and their submissions before this panel.

The judicial officer has the ability to ask questions of witnesses, as have the members of this panel. That right has been exercised sparingly in these proceedings and, it appears to us, has been used in the main in circumstances where clarification of a witness's evidence has been required to assist us in understanding what has transpired.

He has provided us with advice on legal issues which have arisen during the course of the hearing, particularly where there has been a dispute between the parties as under the terms by which hearing panels of this nature are to operate within the United Church under section 075 of the Manual:



"The proceedings shall be like those of a public court of law, and accepted rules of evidence applicable in the province or territory in which the formal hearing is being held shall be used."

What the judicial officer does not do is provide us with an opinion regarding the appropriateness of the action the Presbytery has recommended we decide concerning Mr. Annett's ministerial status nor does he provide us with his opinion on this ruling or other rulings we are required to make from time to time. On procedural matters, he does outline for us the current law and civil procedure in such matters in order that we might make an appropriate and informed decision. In this case, in view of the position taken on the minister's behalf by his advocate, the judicial officer has opted not to make any submission whatever at the conclusion of the hearing as to the final disposition of this case although he is normally free to do so.

On the facts of this case, the judicial officer has not shown bias against the interests of the minister involved in this application nor has there been bias exhibited by him to us in any part of this hearing, either publicly or privately. If any favour has been shown, in our view it has predominately been in support of the minister's position; his repeated reminder of the onus of proof resting with the Presbytery and the regular assistance provided to the minister in ensuring the admission of evidence are examples of this. We understand and accept the reasons for this.

#### Reasonable Apprehension of Bias

As to reasonable apprehension of bias on his part, we have come to the same conclusion on two grounds. Firstly, we are satisfied on all of the evidence that it is not reasonable to conclude that Dr. Jessiman has acted in the past for one of the parties to this dispute. He has made it clear from the time of his initial involvement in the minister's dispute with his Presbytery that he was counsel for the British Columbia Conference and could not, by virtue of the Conference's supervisory role with respect to the Presbytery and possible appeal of its decision, act for the Comox-Nanaimo Presbytery. There is no doubt that the Conference, through its officers, the Executive Secretary, Dr. Thorpe, and its Conference Personnel Minister, Rev. Anderson, and through its counsel, Dr. Jessiman, were in the initial stages of February and March 1995 attempting to assist the two parties, Mr. Annett and the Presbytery, in resolving their dispute. Largely through Mr. Anderson's intervention although not solely, they were initially successful in that attempt and the parties directly undertook some form of discussions or negotiation at least until June 1995. Once however it became clear in March that an appeal of the Presbytery decision would be made to the Conference, that direct assistance ceased.

We have reviewed evidence referred to by Mr. Gunn which he argues might reasonably lead to another conclusion. We find on a review of counsel's correspondence and other actions before us that this is not a reasonable position to adopt. The fact that the minister and those he chose to represent him during the past two years continued to rely on Dr. Jessiman for advice and counsel is strong evidence that he was not perceived as biased by the minister until near the very close of this hearing.

A reasonable observer to this dispute would not, in our view, form a reasonable apprehension of bias on the part of Dr. Jessiman in favour of one party or another. In fact, it has been alleged by the Presbytery with some justification that perhaps if a case for reasonable apprehension of bias

exists, such apprehension might more reasonably be found by the Presbytery in view of Dr. Jessiman's assistance, that of Dr. Thorpe and others on behalf of the Conference, to Mr. Annett, his lawyers and advocates, from the time he filed his appeal in March 1995. Both the Presbytery and the minister have had their own representatives throughout this sad and unfortunate two year journey; it appears clear to us and should to any reasonable observer that whenever Dr. Jessiman became involved in the dispute it was at the request and on behalf solely of the Conference Church whether as Conference Counsel or as Judicial Officer in this hearing or in the earlier 1995 appeal.

The Presbytery also has made it clear that Dr. Jessiman was never engaged by that court to act for it in these or any hearings nor in any discussions or apparent negotiations which preceded them.

Secondly, it was argued that Mr. Annett has waived any perceived or apparent prejudice resulting from the appointment of Dr. Jessiman as judicial officer in April 1996. We have reviewed the authorities with respect to this argument and feel that principle is applicable. The minister's conduct subsequent to the period of time he has alleged Dr. Jessiman acted for the Presbytery (February/ March 1995) suggests that there is no actual apprehension of bias as the same man participated in the appeal hearings of December 1995 and January 1996 without complaint by Annett. Further, Dr. Jessiman was appointed as judicial officer for the present hearing on April 24, 1996 and Mr. Annett has not objected to his involvement until the end of January 1997, in the final days of the hearing, some nine months after his initial appointment and following six months of hearing. Prior to and during the hearing, Mr. Annett and both of his advocates frequently requested information or assistance from the judicial officer and any such requests were handled without complaint of bias.

In short, to the extent that the facts of this case suggest a basis for a complaint of bias, Mr. Annett's conduct amounts to a waiver or, alternatively, evidence which would sufficiently rebut any claim of a reasonable apprehension of bias. The application is dismissed.

## RECOMMENDATIONS

In accord with the terms of appointment of members of this Formal Hearing Panel, we were invited to make any recommendations we felt might be appropriate to be considered by the courts of the church. After hearing the parties for some time recount steps taken by them and other committees and courts of the church in the process leading to this hearing and with the obvious benefit of hindsight not available to these participants, we have opted to make several recommendations which should be considered by the appropriate courts.

### A. QUESTIONS AT COVENANTING SERVICES

In the service of ordination/commissioning members of the order of ministry are required to affirm their willingness to exercise their ministry "subject to the oversight and discipline of the United Church of Canada." (Basis 11.3 of the Manual) "In matters of discipline a member of the order of ministry shall be under the oversight and discipline of Presbytery." (Section 011(b) of the Manual).

In order to establish a new ministry relationship between Presbytery, an individual and a pastoral charge, Presbytery provides an Act of Covenant. (Basis 6.4.8 of the Manual)

Traditionally, the chair of Presbytery in the act of covenant addresses prescribed questions (Section 061 of the Manual) to the minister, the pastoral charge and the members of Presbytery. These questions remind all those present of the Presbytery's responsibility for oversight and discipline and serve as an undertaking by each minister to accept that oversight and discipline in each new covenanting relationship. We found that in September 1992 Comox-Nanaimo Presbytery did not use the questions normally addressed in this act of covenant. The questions used, which appear to have been written particularly for this occasion, make no reference to: (i) Presbytery's responsibility for oversight and discipline, or (ii) the fact that the minister is required to accept the discipline of Presbytery.

Orders of service for acts of covenanting which include the prescribed questions have been provided for the use of the Church in the Service Book for Use in Church Courts (UCPH 1993)

IT IS RECOMMENDED THAT British Columbia Conference direct Presbyteries to follow the Manual requirements for acts of covenant and commend for their use the orders of service which are laid out in the appropriate Service Book for Use in Church Courts.

#### B. NOTES AT MEETINGS OF PASTORAL CHARGE M & P COMMITTEES

According to the Handbook for Ministry and Personnel Committees (MP&E 439): Confidentiality is vital to the work of the Committee. Standards for confidentiality need to be negotiated and agreed upon by the Committee and staff members. It is important to be clear about what can and cannot be shared beyond the Committee. For instance, any matter which is brought to the Committee in confidence by a staff person or a member of the congregation shall be kept in confidence until the individual agrees to a wider sharing of the information.

In a letter written on January 20, 1997, Wendy Barker, a member of St. Andrew's United, Port Alberni, wrote (Exhibit 156):

The MPE Committee (sic) did not keep minutes of meetings. Periodically members would write small notes for their own use. For the meeting of December 9, 1994, I chose to take more detailed notes as we had some troubling issues to discuss. I circulated these notes only to the MPE Committee members and to Rev. Bill Howie. We were of the understanding that Rev. Howie was a resource to Ministry and Personnel Committees and in essence was an ex officio member.

IT IS RECOMMENDED THAT British Columbia Conference through its Division of Ministry, Personnel and Education find and implement ways of educating members of presbyteries concerning the role of Ministry and Personnel Committees in pastoral charges; and also, instruct pastoral charges concerning the confidentiality of notes or minutes maintained by their Ministry and Personnel Committees.

#### C. PRESBYTERY OVERSIGHT OF MINISTRY PERSONNEL

Presbytery is the primary court of the church responsible for oversight of ministry personnel (Section 363 of the Manual). On some occasions, it is necessary to invoke the requirements of section 363 © and (d) when circumstances as provided in that section warrant. Having regard to the principles set out in section 065, presbyteries should attempt to carry out their responsibilities of oversight and discipline with understanding and compassion and, where possible, with the cooperation of the minister involved.

IT IS RECOMMENDED THAT British Columbia Conference advise presbyteries that when under section 363 (d), the Presbytery deems that it "requires a member of the order of ministry to undergo a medical, psychiatric, and/or psychological examination by a qualified professional or professionals acceptable to the Presbytery...." every reasonable effort should be made to secure the agreement of the minister to the choice of examiner and any written material which will be provided to the examiner for purposes of the examination.

#### D. ANNUAL REVIEW OF MINISTRY

The polity of the United Church of Canada (Manual, section 244) requires that Ministry and Personnel Committees at the pastoral charge level undertake an annual review and evaluation of all staff of the pastoral charge; this includes the minister called or appointed to the charge. This practice is reinforced by the current edition of the handbook issued by the Division of Ministry, Personnel and Education of the General Council. In the particular instance of this case, it would have been exceedingly helpful if a review had been undertaken on an annual basis.

IT IS RECOMMENDED THAT British Columbia Conference direct Presbyteries to draw this requirement to the attention of pastoral charges within their bounds, urging strongly that an annual review and evaluation concerning the effectiveness of all staff be undertaken.

#### E. REVIEW BY PRESBYTERY PRIOR TO APPOINTMENT OR CALL

From time to time, Presbyteries will make a term appointment of ministry personnel, subject to annual review. In most cases, the annual review is stipulated for good and logical reasons, designed to benefit both the pastoral charge and the minister. In this case, following such a reviewable appointment, the Presbytery appeared to proceed to issue a call one year later without participating in a review, without inquiring whether a review was successfully completed or providing that the call would not be sustained until a review had been successfully completed.

IT IS RECOMMENDED THAT British Columbia Conference instruct its Settlement Committee to enquire whether in the case of a term appointment, followed by a call to the same person, the call or reappointment was subject to review and, if so, whether the review has taken place, prior to authorizing the issuance of the call or renewing the appointment. Further, that Presbyteries be reminded that when an appointment or call is subject to review, it ensure such review has taken place prior to dealing with the call or reappointment proposed.