

The Trial of Elder John O. Kinnaird
11-23-02, Second Day, Second Session
Ruling on Dismissing the Charge
Bethany Orthodox Presbyterian Church
Oxford, PA.

Winward: Mr. Tyson.

TT: The defense would move that the court dismiss the charges on the ground that the specifications do not support the charge.

(Pause)

Winward: We are going to take a break and discuss that. Do you have the text written for us?
[gavels down the murmuring in the audience] Would you repeat your request?

TT: I think I said, that the trial judicatory - I think I said, the court, whatever is appropriate - dismiss
...

[inaudible statement by I believe Mr. Kinnaird]

Wilkening: What chapter?

TT: Page 118. Dismiss the charge. It speaks about the accused shall have the right to move for the dismissal of the charges. There ' s only one charge here. And so we ' re moving that you dismiss the charge on the ground that the specifications do not support it.

Winward: O.K. Thank you. We ' ll take a break.

Winward: We recognize the right of the accused to act in accordance with the Book of Discipline and their right to request to move for the dismissal of the charges. Having considered it, we have denied that motion.

[Inaudible statement away from the microphone]

Winward: A motion to recess.

[Inaudible statement]

Winward: You want to speak to that motion?

Watson: I ' m speaking to this largely for information purposes. It would be our intent to resume at nine o ' clock next Saturday morning with Mr. Kinnaird having the opportunity to make his summary statement, a conclusion of his defense. And following that we would proceed to deliberate and to hopefully come to a good, God pleasing judgment in this matter.

TT: Mr. Moderator?

Winward: Mr. Tyson.

TT: Yes, we surely will do that, but we hope to do more. And we just going to tell you now that we are going to intend seek to do more. Of course, you are the bosses here and you can stop it, if you don't want it to happen. But we intend to proceed with our defense as the book speaks of it. We are at the point now where it says that the defense may proceed to present its case. And we intend to do that. We will have at least one further witness here next Saturday. And so we will proceed also to question, quite probably, the accused himself, and that all comes prior to summation.

(Pause.)

Winward: There is agreement for that way to proceed. Do you have any idea, time-wise, what that will entail?

TT: May I confer?

Winward: Certainly.

TT: Mr. Moderator?

Winward: Mr. Tyson.

TT: We cannot say. Since there are no limitations in the Book of Discipline, we are not going to seek to filibuster, but we're going to present our case as cogently and as quickly, as expeditiously, as we possibly can until we're finished.

Winward: Thank you, Mr. Tyson, I'm sure the judicatory will certainly appreciate that.

Wilkening: Mr. Moderator?

Winward: Mr. Wilkening.

AW: Just as this is moving into a different phase, I would request the court that we would have the opportunity to cross-examine any witnesses of the accused ...

Winward: The Moderator would ...

AW: ... as you have ruled so far, and that, we would not be placed necessarily under the same restrictions that we were in the case of Dr. Lillback. I mean, not that we're trying to prolong the case either, but I hear the accused asking for a much more open ended process and I would request that we would have the same, the same treatment. That we wouldn't be truncated by an earlier ruling in regard to Dr. Lillback.

Winward: The Moderator judges that you will be allowed to cross-examination - to cross-examine witnesses.

AW: O.K.

Winward: Further discussion on the motion. The motion is to recess until next Saturday at nine o'clock. Are you ready to vote? All in favor, say, >aye.' [Members vote] Opposed? [silence] It is carried. We are recessed.

[End of Tape four, side two.]