

**THE CORNWALL
PUBLIC INQUIRY**



**L'ENQUÊTE PUBLIQUE
SUR CORNWALL**

Public Hearing

Audience publique

Commissioner

**The Honourable Justice /
L'honorable juge
G. Normand Glaude**

Commissaire

VOLUME 47

Held at :

Hearings Room
709 Cotton Mill Street
Cornwall, Ontario
K6H 7K7

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Cornwall, Ontario
K6H 7K7

Jeudi, le 10 août 2006

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Raija Pulkkinen	Commission Counsel
Ms. Louise Mongeon	Registrar
Me Daniel Boivin	Cornwall Police Service Board
Ms. Diane Lahaie Dect.Staff Sgt.Colin Groskopf	Ontario Provincial Police
Mr. David Rose Mr. Mike Lawless	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Judie Im	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee Ms. Lauren Schellenberger	Victims Group
Mr. Jose Hannah-Suarez	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Ken MacLennan	Mr. Ken MacLennan
Mr. David Sherriff-Scott M ^e André Ducasse	Bishop Paul-André Durocher

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1 --- Upon commencing at 10:09 a.m./

2 L'audience débute à 10h09

3 **THE REGISTRAR:** This hearing of the Cornwall
4 Public Inquiry is now in session. The Honourable Mr.
5 Justice Normand Glaude presiding.

6 Please be seated. Veuillez vous asseoir.

7 **THE COMMISSIONER:** Thank you.

8 Good morning all.

9 **MR. ENGELMANN:** Good morning, Mr.
10 Commissioner.

11 One of the matters that was left over from
12 our last hearing was the decision on Mr. MacLennan's
13 application for standing and funding.

14 **THE COMMISSIONER:** Yes.

15 **MR. ENGELMANN:** He was advised that that
16 decision would be issued today and he is present. I wish
17 to just inform you, Mr. Commissioner, that Mr. MacLennan
18 arrived at Commission's office around nine o'clock this
19 morning and did have with him a one-page document entitled
20 "Concluding Statement". I am not sure if he wishes to
21 address that or not. I will just speak to him for a
22 moment, sir, if I may.

23 **THE COMMISSIONER:** Thank you.

24 **(SHORT PAUSE/COURTE PAUSE)**

25 **MR. ENGELMANN:** He would like to speak to it

1 briefly with your permission, Mr. Commissioner.

2 **THE COMMISSIONER:** All right.

3 Well, we'll -- come forward, Mr. MacLennan.

4 **MR. MacLENNAN:** Good morning, Your Honour.

5 **THE COMMISSIONER:** Good morning.

6 **MR. MacLENNAN:** I guess first of all I
7 should say I appreciate the opportunity to express my
8 concerns and the Commission and you, Your Honour, have been
9 very receptive to that and I am very appreciative of that.

10 Actually, I had a concern at the beginning
11 because of the -- and I'll make this very brief -- because
12 of the Diocese use of religious law that sort of gave me
13 the impression that, you know, that jurisprudence in
14 Ontario was functioning on that; so that was a little bit
15 of concern.

16 And then my concern again is regarding
17 reasons for recommendations and also when I looked at the
18 government test, to me it was basically without a measuring
19 device really any reason that you would give for a decision
20 would be sort of meaningless, so I believe my concerns go
21 beyond this Inquiry and really deal with jurisprudence
22 generally. And so the only way I could sort of express
23 them was I had to request an application for standing,
24 which to be honest with you I am not really interested in,
25 but in order to express those concerns, that's what I've

1 done.

2 And my final comment would be this, that I
3 understand your statement regarding you're not required to
4 explain or provide reasons for your decisions, but at the
5 same time I believe that goes to the heart of the
6 credibility of this Inquiry and when you make your future
7 recommendations, I believe that unless you do provide some
8 evidence upon which they're based or reasons, then the
9 public will maybe have less confidence in those
10 recommendations.

11 So I just simply -- this is my advice to you
12 that maybe you would like to consider that in the future
13 notwithstanding the fact that -- but I appreciate the
14 opportunity of expressing those concerns and I thank you
15 for the opportunity to be here this morning.

16 **THE COMMISSIONER:** Thank you.

17 On July 6th, 2006, Mr. Ken MacLennan, acting
18 on his own behalf as a private citizen, filed an
19 application for special standing and funding.

20 On July 26th, he filed supplementary written
21 material and made a brief oral submission.

22 Mr. MacLennan wishes to be granted standing
23 before this Commission in relation to my decision to
24 recommend funding for the legal fees to be incurred by the
25 Diocese of Alexandria-Cornwall. He suggests that no

1 reasons were given for that recommendation.

2 In the alternative, the Applicant states
3 that he will withdraw his application if I were to meet
4 three conditions, namely:

5 a) To advise whether I adopted Canon Law in coming to my
6 decision;

7 b) Ensure that his application is posted on the
8 Commission Website; and

9 c) That I make recommendations to the Attorney General to
10 change the test used in deciding to recommend funding.

11 On November 17, 2005, I issued the ruling on
12 standing and funding in relation to a number of
13 applications. In that ruling, I granted full
14 standing to the Diocese of Alexandria-Cornwall
15 but noted that if the Diocese wished to avail
16 itself of public funds, it had to reveal its
17 financial structure and exhaust any means of
18 funding available to them. I allowed the Diocese
19 an opportunity to make supplementary submissions
20 on funding. Written submissions were received on
21 December 1st, 2005 with further oral submissions
22 heard on December 6th, 2005. I issued my decision
23 orally on the same day recommending funding for
24 the Diocese of Alexandria-Cornwall. In issuing
25 my decision, I noted that I had considered the

1 further material showing that the religious
2 duties of the church were clearly separated from
3 that of its financial arrangements.

4 With great respect to Mr. MacLennan, I did
5 give reasons supporting my decision, both in
6 writing on November 17th, 2005 on the initial
7 application with an oral decision on the
8 subsequent material filed on December 6th, 2005.

9 Further, the Attorney General has acted on
10 my recommendation and as such, the Applicant's
11 request is moot.

12 As well, as a Commissioner of the Inquiry,
13 it is not permissible for me to comment or
14 explain further my decision and reasons, which
15 stand legally and publicly unless, of course,
16 overturned by a higher court.

17 Accordingly, with the greatest of respect to
18 the Applicant, his application cannot succeed.
19 The reason for this is simple. In my original
20 ruling on standing I outlined the test for
21 standing. I noted that mere concern about the
22 issues to be canvassed at the Inquiry, however
23 deep and genuine, was not enough to justify
24 granting standing nor would the fact that a
25 person has a useful perspective that might assist

1 the Commissioner.

2 Thus, even if Mr. MacLennan could raise a
3 point with respect to the issuance of reasons and
4 the need for transparency and accountability,
5 those are at best concerns about collateral
6 issues, which in the end do not justify the
7 granting of standing.

8 Finally, I return to Mr. MacLennan's true
9 concerns. While I cannot accede totally to his
10 reasons, I did take the step on July -- while I
11 cannot accede totally to giving reasons, I did
12 take the step on July 26th, 2006 of reassuring Mr.
13 MacLennan that I had not considered or applied
14 Canon Law in coming to my decision.

15 As for posting his application on the
16 Website, while I am of the view that the
17 application lacks substance and while it was made
18 in good faith, Mr. MacLennan's comments this
19 morning that he used the application for standing
20 and funding to raise his issue, I am weary of
21 people taking the application for standing as a
22 method to raise concerns that are clearly outside
23 the scope of this Inquiry nor am I impressed that
24 someone would take the opportunity to attempt to
25 use the Inquiry and its Website to perhaps

1 promote its own agenda.

2 However, in order to ensure transparency, I
3 will permit his application to be posted on the
4 Website in due course because in the end I feel
5 that Mr. MacLennan did act in good faith, however
6 having erred in judgement, I suppose, in the
7 manner in which it should proceed.

8 Finally, I decline to make any
9 recommendation to the Attorney General on this
10 matter. I note that his Mr. MacLennan has made
11 his views known to the Attorney General.
12 Accordingly, his application is dismissed.

13 Thank you very much, Mr. MacLennan.

14 **MR. ENGELMANN:** I'll just have a minute, if
15 I may, sir.

16 **THE COMMISSIONER:** Thank you.

17 **(SHORT PAUSE/COURTE PAUSE)**

18 **MR. ENGELMANN:** Perhaps then, Mr.
19 Commissioner, we could carry on with the evidence, the
20 corporate policy evidence from the Diocese.

21 **THE COMMISSIONER:** Thank you.

22 **MR. ENGELMANN:** Bishop Durocher is present
23 and coming forward.

24 **THE COMMISSIONER:** Yes, thank you. Good
25 morning, sir.

1 Where will you be taking us this morning,
2 Mr. Engelmann?

3 **MR. ENGELMANN:** Well let's just hope I can
4 find the starting point.

5 **THE COMMISSIONER:** There you go. That's
6 what I was looking for.

7 **BISHOP PAUL-ANDRÉ DUROCHER, Resumed/Sous le même serment:**
8 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
9 **ENGELMANN:**

10 **MR. ENGELMANN:** Bishop Durocher, I believe
11 we were -- and by the way, we are looking at your outline
12 of evidence, which is at Tab "A" of Exhibit 58, and I
13 believe we were just at the bottom of page 5 turning to a
14 new section "The Duties of Parish Priests and Parish
15 Structure". I know we have been jumping around a little
16 bit, but I believe that's where we were, so if you don't
17 mind, sir, that's where we will start.

18 **BISHOP DUROCHER:** Sure.

19 **MR. ENGELMANN:** Good morning, by the way.

20 **BISHOP DUROCHER:** Good morning.

21 **MR. ENGELMANN:** Sir, I think you've told us
22 already that the Diocese of Alexandria-Cornwall is made up
23 of 31 parishes, and you've indicated that, as I understand
24 it, there are 20 priests, but there are also some retired
25 priests as well?

1 **BISHOP DUROCHER:** There are approximately 20
2 active priests in ministry and a number of retired priests,
3 yes.

4 **MR. ENGELMANN:** And, sir, you outline on the
5 following page, page 6, some of the responsibilities of
6 priests that are priests of the Diocese. Could you just
7 very briefly elaborate on those duties for us, the
8 different types of duties that parish priests have in the
9 Diocese of Alexandria-Cornwall.

10 **BISHOP DUROCHER:** Yes, again, as I was
11 explaining yesterday about a bishop, traditionally we
12 divide the duties of a priest into three areas. The
13 teaching, the sacramental and the leadership functions. So
14 in the teaching function, once again a priest is
15 responsible for the education of the faith of his
16 parishioners. He does that mostly through his own
17 preaching and teaching but also in setting up programs for
18 faith education.

19 At the level of the sacraments, the priest
20 is responsible to see to the celebration of specifically
21 the Eucharist on a regular basis, typically in a parish
22 daily celebration of mass and a number of celebrations on
23 the Saturday evening and Sunday morning as well as the
24 celebration of funerals, weddings, baptisms and anointing
25 of the sick.

1 At the leadership level, the priest has the
2 responsibility -- we could divide it again into two
3 sections: the pastoral area and the administrative area.
4 In the pastoral area, he is responsible for we could say
5 the community life of the parish in setting up committees,
6 leadership teams, various movements that exist within the
7 church and are active at parish levels. And also, on the
8 other hand, the administrative function, which would be the
9 administration of the temple goods, which he typically does
10 with the help of a parish finance committee.

11 **MR. ENGELMANN:** That's what you've set out
12 in the middle of page 6 in the larger bullet,
13 "Administering the Goods"?

14 **BISHOP DUROCHER:** That's correct.

15 **MR. ENGELMANN:** And the pastoral care could
16 involve visiting parishioners at hospitals, old age homes,
17 counselling, things of that nature?

18 **BISHOP DUROCHER:** Absolutely.

19 **MR. ENGELMANN:** And, sir, just so that we
20 are clear on the geographic area of your diocese, because
21 we have had different institutions come to us and talk to
22 us about their geographic areas, I just want to make sure
23 that it's clear where these 31 parishes are located?

24 **BISHOP DUROCHER:** In the counties of
25 Stormont and Glengarry.

1 **MR. ENGELMANN:** And would that include, sir,
2 then the City of Cornwall?

3 **BISHOP DUROCHER:** Yes.

4 **MR. ENGELMANN:** All right.

5 **BISHOP DUROCHER:** Excuse me, I would have to
6 add the Diocese also includes Cornwall Island, so that part
7 of Akwesasne Reserve which is on Cornwall Island is under
8 the jurisdiction of the Diocese.

9 **MR. ENGELMANN:** Sir, then, from
10 approximately from two-thirds of the way down page 6, we
11 have a little bit of the history of the Diocese; is that
12 fair?

13 **BISHOP DUROCHER:** Yes.

14 **MR. ENGELMANN:** And in it you talk about how
15 the Diocese has grown from two parishes to where it stands
16 today?

17 **BISHOP DUROCHER:** Correct.

18 **MR. ENGELMANN:** And I understand from
19 looking at it over the next few pages, pages 6, 7 and 8,
20 there were a number of parishes that were added between
21 1826 and 1890, and you list them at (a) through (i),
22 rolling onto page 7?

23 **BISHOP DUROCHER:** Right.

24 **MR. ENGELMANN:** And then there are a number
25 of parishes that are created up to 1965 and you list them

1 at (a) through (v)?

2 BISHOP DUROCHER: That's right.

3 MR. ENGELMANN: Now, you talk about the fact
4 that in 2003 three of the parishes were closed?

5 BISHOP DUROCHER: That's correct.

6 MR. ENGELMANN: And that leaves us with the
7 total number of 31 today?

8 BISHOP DUROCHER: Correct.

9 MR. ENGELMANN: And your largest parish is
10 the Parish of St. Columban's?

11 BISHOP DUROCHER: In Cornwall, yes.

12 MR. ENGELMANN: That's here in the City of
13 Cornwall?

14 BISHOP DUROCHER: In the City of Cornwall,
15 yes.

16 MR. ENGELMANN: All right.

17 And then you've listed a number of parishes
18 with their different sizes?

19 BISHOP DUROCHER: That's right.

20 MR. ENGELMANN: And as I understand it, some
21 of the parishes are English, some are French. And are some
22 bilingual as well?

23 BISHOP DUROCHER: That's correct.

24 MR. ENGELMANN: On page 9 of your outline,
25 you refer to the fact that the Diocese is divided into four

1 deaneries. Can you tell us what a deanerie is?

2 **BISHOP DUROCHER:** A Deanerie is a group of
3 parishes. The regrouping of parishes exists in order to
4 facilitate collaboration among the various parishes that
5 share, in this case, geographical area and linguistic.

6 **MR. ENGELMANN:** All right.

7 So do you have English deaneries and French
8 deaneries, for example?

9 **BISHOP DUROCHER:** There are two English
10 deaneries and two French deaneries. The English deaneries,
11 there is one for the city and one for the countryside and a
12 similar arrangement for the two French deaneries.

13 **MR. ENGELMANN:** All right.

14 And you say that each deanerie elects a Dean
15 who is then a member of the College of Consulters, and
16 that's what one of the -- if I can use the term "Standing
17 Committees" within the Diocese?

18 **BISHOP DUROCHER:** That's correct.

19 **MR. ENGELMANN:** Who would elect that Dean
20 then?

21 **BISHOP DUROCHER:** Excuse me; I've just
22 realized that's an error.

23 **MR. ENGELMANN:** All right.

24 **BISHOP DUROCHER:** The four deans are members
25 of the Presbyteral Council, the Priests' Council.

1 **MR. ENGELMANN:** Presbyteral ---

2 **BISHOP DUROCHER:** The Presbyteral Council or
3 the Priests' Council as it's called. From the Priest's
4 Council the College of Consulters is chosen.

5 **MR. ENGELMANN:** I see. So that's a smaller
6 group then?

7 **BISHOP DUROCHER:** That's right.

8 **MR. ENGELMANN:** All right.

9 **BISHOP DUROCHER:** I'm sorry for that
10 mistake.

11 **MR. ENGELMANN:** No, no.

12 So how are these deans elected, or by whom?

13 **BISHOP DUROCHER:** They're elected by their
14 fellow priests within the deanery.

15 **MR. ENGELMANN:** Okay. And then you talk
16 about some of their responsibilities in the last paragraph
17 of page 10?

18 **BISHOP DUROCHER:** The last paragraph on page
19 10 gives the responsibility of the College of Consulters.

20 **MR. ENGELMANN:** All right.

21 Now, the next section of your outline
22 starting at page 11 deals with the Canadian Conference of
23 Catholic Bishops, also known as the CCCB; correct?

24 **BISHOP DUROCHER:** Yes.

25 **MR. ENGELMANN:** And just briefly if you can

1 tell us what it is and if it's important within the
2 structure of the Roman Catholic Church in Canada?

3 **BISHOP DUROCHER:** The Canadian Conference of
4 Catholic Bishops is an association of the Roman Catholic
5 Bishops of Canada. It is an association that exists to
6 help Bishops with their own tasks within their dioceses,
7 and it facilitates coordination of common purposes among
8 the bishops.

9 **MR. ENGELMANN:** How important is the
10 relationship between bishops within the country, within the
11 Church structure?

12 **BISHOP DUROCHER:** It's important at a
13 personal level in the sense that the consultation that goes
14 on there and the advice that is shared is very important,
15 for example, to me as a Bishop in my working out of my
16 responsibilities as a diocesan bishop.

17 **MR. ENGELMANN:** Now, we have some
18 information about the Canadian Conference of Catholic
19 Bishops at Tab 3; is that correct?

20 **BISHOP DUROCHER:** That's correct. It's
21 taken from their website.

22 **MR. ENGELMANN:** All right.
23 So if people want to know more about this,
24 they can go to their website?

25 **BISHOP DUROCHER:** Exactly.

1 **MR. ENGELMANN:** And in addition, from their
2 website, one can learn further information about their
3 publications and the other work that the CCCB is involved
4 in?

5 **BISHOP DUROCHER:** Exactly.

6 **MR. ENGELMANN:** And the objectives are set
7 out on the -- I think it is the third page in, and I think
8 you have talked a little bit about this, for example,
9 strengthening the union of the Bishops of Canada with the
10 Bishop of Rome, et cetera?

11 **BISHOP DUROCHER:** Exactly.

12 **MR. ENGELMANN:** And there are a number of
13 committees, commissions and organizations of the CCCB and
14 they are set out on the following page, are they not?

15 **BISHOP DUROCHER:** That's right.

16 **MR. ENGELMANN:** And, sir, you have been
17 involved in some of these committees and commissions, as I
18 understand it?

19 **BISHOP DUROCHER:** As I said yesterday, I've
20 sat on the Commission for Theology and the Commission for
21 Liturgy and Sacraments in the French sector.

22 **MR. ENGELMANN:** Okay. And is the conference
23 split up, French-English?

24 **BISHOP DUROCHER:** There are two sectors
25 within the conference. For example, when we meet -- for

1 the past number of years the conference meets in a plenary
2 session once a year, typically in October. We meet for
3 typically five days. Of the five days, one is given over
4 to sectoral meetings. So then the Bishops of the French
5 sector meet separately from the Bishops of the English
6 sector to deal with issues that are more than
7 linguistically specific. For example, the approval of
8 texts in liturgy must be done at a national level and
9 obviously the French language Bishops are concerned with
10 the French language texts and the English sector Bishops
11 for the English language texts.

12 **MR. ENGELMANN:** What, if any, authority does
13 the CCCB as a body have over a diocese or an archdiocese?

14 **BISHOP DUROCHER:** The CCCB has no authority
15 over individual dioceses. Canon law recognizes --
16 attributes to Episcopal conferences the power to, for
17 example, liturgical texts, to approve a liturgical text
18 that will be used in the country. So in that sense, their
19 authority is the approval of the text that will be used in
20 the Diocese of Alexandria-Cornwall. I don't have the power
21 to approve a different text. The Conference's approvals
22 though need to be recognized by Rome because really it is a
23 delegated power. The power really resides in Rome for
24 those issues, but Rome has decided that in order to allow
25 greater sensitivity to regional realities, to allow

1 Episcopal conferences to decide some of those issues, and
2 so then they are vetted by Rome. That's the level of the
3 authority, but the Conference has no authority to enter
4 into individual dioceses and how can you say, impinge on
5 the authority of the local Bishop.

6 **MR. ENGELMANN:** Okay. So it's really the
7 liturgy that they have some control over?

8 **BISHOP DUROCHER:** Yes, liturgy. There are
9 some issues of canon law. For example, yesterday I was
10 saying that I cannot sell a property over \$4.5 million
11 without the approval of Rome.

12 **MR. ENGELMANN:** Yes.

13 **BISHOP DUROCHER:** That is set by decree by
14 the Canadian Conference of Catholic Bishops. Again, Rome
15 was not going to determine that sum at a universal level
16 because the number should be very different from a wealthy
17 country to a poor country. And so they have decided that
18 the Episcopal Conference will decide on that sum.

19 **MR. ENGELMANN:** All right.

20 And that would be then the CCCB?

21 **BISHOP DUROCHER:** That would be the CCCB.
22 So typically the CCCB has delegated power from Rome to
23 determine some issues that really belong to Rome and then
24 that becomes law for the dioceses within the country.

25 **MR. ENGELMANN:** But given the make-up of the

1 CCCB and the fact that there are Bishops from across the
2 country in the organization, would the organization have
3 some persuasive value with respect to policies and
4 procedures?

5 **BISHOP DUROCHER:** Well, certainly great
6 influence. I think from "Pain to Hope", the document which
7 the CCCB produced as a recommendation to the various
8 bishops on how to deal with issues of sexual abuse is one
9 of those very influential documents.

10 **MR. ENGELMANN:** All right.

11 **BISHOP DUROCHER:** But the CCCB has no power
12 to establish national protocols for dealing with such
13 issues.

14 **MR. ENGELMANN:** So for example, if they
15 recommend that each diocese have a protocol for dealing
16 with allegations of child sexual abuse, that might be
17 persuasive for ---

18 **BISHOP DUROCHER:** Influential.

19 **MR. ENGELMANN:** Influential, but it's not
20 mandatory?

21 **BISHOP DUROCHER:** Absolutely.

22 **MR. ENGELMANN:** All right.

23 Let's then move to the Ontario Conference of
24 Catholic Bishops. That's set out at the middle of page 12
25 of your outline?

1 **BISHOP DUROCHER:** Yes.

2 **MR. ENGELMANN:** Again, this is an umbrella,
3 if I can use that term, organization like the CCCB, but
4 it's for the Province of Ontario?

5 **BISHOP DUROCHER:** I prefer the term a
6 collaborative organization than an umbrella. Umbrella
7 implies that there is some kind of overview or oversight.

8 **MR. ENGELMANN:** Yes.

9 **BISHOP DUROCHER:** There is no such power in
10 these conferences. It's a collaborative conference between
11 the Bishops. The difference between the Ontario Conference
12 canonically and the Canadian Conference is that canon law
13 recognizes national conferences, and as I say, gives them
14 some powers, delegated powers, to deal with certain issues.
15 This is not true of the Ontario Conference of Catholic
16 Bishops. So the Ontario Conference is a much more, how can
17 you say, voluntary organization.

18 **MR. ENGELMANN:** So it doesn't have any
19 recognition in canon Law?

20 **BISHOP DUROCHER:** That's correct.

21 **MR. ENGELMANN:** Okay. And I note, and maybe
22 I just missed this earlier, it says it is an association of
23 acting and retired bishops?

24 **BISHOP DUROCHER:** That's correct.

25 **MR. ENGELMANN:** Is that also true of the

1 CCCB?

2 **BISHOP DUROCHER:** Yes, the retired Bishops
3 are part of the CCCB.

4 **MR. ENGELMANN:** All right.

5 And you have a document dealing with the
6 OCCB at Tab 4 of your Book of Documents; is that correct?

7 **BISHOP DUROCHER:** Yes, correct, and again
8 it's taken from the website of the OCCB.

9 **MR. ENGELMANN:** So again, if people want to
10 know more about what the OCCB does, its committee
11 structure, some of its publications, one can go to the
12 website?

13 **BISHOP DUROCHER:** Correct.

14 **MR. ENGELMANN:** And that's listed on page 1
15 of Tab 4?

16 **BISHOP DUROCHER:** Yes.

17 **MR. ENGELMANN:** At least the English ---

18 **BISHOP DUROCHER:** Yes.

19 **MR. ENGELMANN:** All right.

20 **THE COMMISSIONER:** I'm sorry, Mr. Engelmann,
21 will you be speaking of financial resources of these
22 organizations? Is that part of the plan? It is now?

23 **MR. ENGELMANN:** It is now.

24 **THE COMMISSIONER:** Okay. Somewhere along the
25 line I'd like to hear about that.

1 **MR. ENGELMANN:** Can you give us some sense
2 as to how these organizations, both the CCCB and the OCCB,
3 support themselves?

4 **BISHOP DUROCHER:** They are funded by a
5 voluntary taxation of the dioceses. So every year I am
6 assigned a certain amount that is a determined per capita
7 in Ontario and for the Canadian Conference but, as I say,
8 that's a voluntary sum in the sense that's is the bishops
9 would approve the budget themselves and then tax themselves
10 that much for the functioning of the conferences.

11 **MR. ENGELMANN:** So it's a suggested sum?

12 **BISHOP DUROCHER:** Yes, it is a suggested sum
13 in the sense that there is no compulsion. If a diocese
14 didn't meet that sum, there is nothing that could be done
15 about that.

16 **MR. ENGELMANN:** But if a diocese was in poor
17 financial shape, that particular bishop wouldn't be asked
18 to remove himself from the conference?

19 **BISHOP DUROCHER:** No, he could not remove --
20 he could not be removed from the conference for that
21 reason.

22 **MR. ENGELMANN:** And do these conferences get
23 money from Rome as well, or is it simply from the dioceses
24 here in Canada?

25 **BISHOP DUROCHER:** No, there is no money that

1 flows from Rome to the conferences. The Episcopal
2 conferences are completely funded by the functioning --the
3 dioceses that are part of the conference.

4 **MR. ENGELMANN:** And as I understand it, sir,
5 there is not a conference for every province?

6 **BISHOP DUROCHER:** No, in Ontario there are
7 four regional conferences: one for Eastern Canada; the
8 Atlantic provinces; one for Quebec; one for Ontario, and
9 one for the western provinces.

10 **MR. ENGELMANN:** All right.

11 And I understand, sir, we went through this
12 to some extent yesterday, you have been an active
13 participant in the work of the OCCB?

14 **BISHOP DUROCHER:** Yes.

15 **MR. ENGELMANN:** Sorry.

16 **BISHOP DUROCHER:** I would just say that most
17 of the bishops, the diocesan bishops are active members of
18 these conferences.

19 **MR. ENGELMANN:** If we just look at Tab 4 for
20 a minute at page 3, the dioceses that are listed there, are
21 those all of the dioceses for the province of Ontario?

22 **BISHOP DUROCHER:** That's correct.

23 **MR. ENGELMANN:** And it lists the three
24 archdioceses as well?

25 **BISHOP DUROCHER:** Yes, it does.

1 **MR. ENGELMANN:** All right.

2 The next section of your outline deals with
3 schools, and you've traced some of the historical
4 relationship again here, if I'm correct, Bishop Durocher?

5 **BISHOP DUROCHER:** That's right.

6 **MR. ENGELMANN:** With respect to local
7 Catholic schools. And you've given us an indication as to
8 those that were publicly funded and some that were
9 privately funded?

10 **BISHOP DUROCHER:** That's right.

11 **MR. ENGELMANN:** All right.

12 I'll just be a moment.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **MR. ENGELMANN:** Now, we've heard from some
15 witnesses earlier this week about the extension of funding
16 for public Catholic education during the '80s. So as I
17 understand it, prior to that, high schools or secondary
18 schools were either in the public system, or if they were
19 Catholic they were privately run and operated.

20 **BISHOP DUROCHER:** Grades 11, 12 and 13 would
21 have been completely privately run. Grades 9 and 10
22 received partial funding.

23 **MR. ENGELMANN:** Okay.

24 **BISHOP DUROCHER:** So typically what would
25 happen -- and I can give my personal experience at the high

1 school I attended in Timmins -- grade 9 and 10 belonged to
2 the Roman Catholic Separate School Board, and grade 11, 12
3 and 13 belonged to the Religious Order of the Brothers of
4 the Sacred Heart, but the brothers administered both
5 sections of the school together.

6 **MR. ENGELMANN:** And would that have been
7 similar here in the Cornwall area as well at that time?

8 **BISHOP DUROCHER:** The schools would have
9 typically gotten funding for grades 9 and 10 and no funding
10 for grades 11, 12 and 13.

11 **MR. ENGELMANN:** All right.

12 So you explained the situation that predates
13 1984.

14 **BISHOP DUROCHER:** Yes.

15 **MR. ENGELMANN:** After 1984 with the
16 extension of funding, what then happens?

17 **BISHOP DUROCHER:** Most of those private
18 Catholic schools disappeared in Ontario and were
19 transferred to the Catholic school boards.

20 **MR. ENGELMANN:** And they became part of an
21 English Catholic public school board?

22 **BISHOP DUROCHER:** Yes, because the -- yes,
23 the French high schools had a different history.

24 **MR. ENGELMANN:** Yes.

25 **BISHOP DUROCHER:** Up until 1969, the public

1 school system was not allowed to offer French language
2 education in Ontario. Only the Catholic school system was
3 allowed to offer French language education, which meant
4 that there was no publicly funded grade 11, 12 and 13 in
5 French in Ontario. So students who wanted to have
6 education in French at that level had -- their only option
7 was the private schools which were typically run by
8 religious orders.

9 In '69 when the government decided to allow
10 public schools to run French language schools, a lot of
11 those French language private high schools ceased
12 functioning and the public school system set up French
13 language high schools. For example, that's what happened
14 here in Cornwall.

15 **MR. ENGELMANN:** With La Citadelle?

16 **BISHOP DUROCHER:** With the closure of the
17 Collège de Cornwall which was run by the Religious Order of
18 the Clercs Saint-Viateur ---

19 **MR. ENGELMANN:** Yes.

20 **BISHOP DUROCHER:** --- and the opening of La
21 Citadelle.

22 **MR. ENGELMANN:** And in fact, those privately
23 operated or run schools were typically run by one or more
24 religious orders?

25 **BISHOP DUROCHER:** They were -- each school

1 was typically run by a religious order, yes.

2 **MR. ENGELMANN:** And you talk about the -- in
3 the middle of page 13 -- that the publicly funded Catholic
4 schools are not run or administered by the Diocese, and
5 then you talk about how the Diocese is involved; correct?

6 **BISHOP DUROCHER:** That's correct, yes.

7 **MR. ENGELMANN:** And what you talk about
8 there in that middle paragraph, would that be true today,
9 sir?

10 **BISHOP DUROCHER:** Yes, about the publicly
11 funded Catholic schools, yes.

12 **MR. ENGELMANN:** All right.

13 So it's really on matters of questions of
14 Catholic curriculum?

15 **BISHOP DUROCHER:** Yes. Typically the
16 curriculum of the religious education courses must be
17 approved by the local bishop.

18 **MR. ENGELMANN:** All right.

19 And you also talk about the fact that the
20 Diocese may also name a priest to be the chaplain for
21 particular schools?

22 **BISHOP DUROCHER:** That's correct.

23 **MR. ENGELMANN:** And is that routinely done,
24 sir?

25 **BISHOP DUROCHER:** In this Diocese, yes.

1 **MR. ENGELMANN:** All right.

2 Then you give a brief description of some of
3 the schools that were run by religious orders and how that
4 was done.

5 **BISHOP DUROCHER:** Yes.

6 **MR. ENGELMANN:** And you say that most of the
7 local private French language Catholic high schools that
8 were run by religious orders ceased to operate by the early
9 '70s; is that correct?

10 **BISHOP DUROCHER:** The French language ones,
11 yes.

12 **MR. ENGELMANN:** All right.

13 Were there some running in English?

14 **BISHOP DUROCHER:** There were. I believe
15 there were some. For example, there was a high school run
16 in St. Raphael's by the Sisters of the Holy Cross. I don't
17 know if it's written here which year it stopped
18 functioning, but by the '70s there were no longer any
19 private Catholic high schools in the area.

20 **MR. ENGELMANN:** You mention at the bottom of
21 page 13 and onto page 14 that these have included the Holy
22 Cross Sisters and Soeurs de la Congrégation de Notre-Dame.

23 **BISHOP DUROCHER:** That's correct.

24 **MR. ENGELMANN:** All right.

25 And as I understand it, there was only one

1 privately held school ever run by the Diocese and it closed
2 much earlier in the century?

3 **BISHOP DUROCHER:** That's correct.

4 **MR. ENGELMANN:** Now, do you know, sir, if in
5 the schools run by religious orders whether diocesan
6 priests did teach in those schools?

7 **BISHOP DUROCHER:** Typically in the schools
8 that would have been run by an order of priests, for
9 example, the Clercs Saint-Viateur, there would have been no
10 priests, diocesan priests involved in the running of the
11 school since they had their own priests to answer all the
12 needs of their students.

13 Priests would have been involved in the
14 other private schools typically as chaplains not as
15 teachers.

16 **MR. ENGELMANN:** Okay.

17 **BISHOP DUROCHER:** I'm not aware of any
18 priests that taught courses in any of the private high
19 schools here in the area.

20 **MR. ENGELMANN:** All right.

21 And since the '70s when school stopped
22 running essentially, were diocesan priests involved in
23 teaching at any of the other schools or were they just
24 involved as chaplains?

25 **BISHOP DUROCHER:** I'm not aware that any of

1 them were involved in teaching. It could have been. For
2 example, I taught at the local French language public high
3 school in Timmins for four years as a priest. So it's a
4 possibility.

5 **MR. ENGELMANN:** And that was teaching
6 religious education?

7 **BISHOP DUROCHER:** I was teaching music ---

8 **MR. ENGELMANN:** Oh, okay.

9 **BISHOP DUROCHER:** --- and values
10 clarification.

11 **MR. ENGELMANN:** M'hm.

12 **BISHOP DUROCHER:** It was a public school.
13 So there was no religious education in the school.

14 **MR. ENGELMANN:** Yes.

15 **BISHOP DUROCHER:** But I'm not aware here in
16 the Diocese of any priest having taught a course at a high
17 school level.

18 **MR. ENGELMANN:** Now, you talk briefly in
19 your outline at page 14 about a Catholic hospital.

20 **BISHOP DUROCHER:** Yes.

21 **MR. ENGELMANN:** As I understand it, it used
22 to be owned and operated by a religious order?

23 **BISHOP DUROCHER:** That's correct.

24 **MR. ENGELMANN:** And this hospital has now
25 been closed?

1 **BISHOP DUROCHER:** That's correct.

2 **MR. ENGELMANN:** And aside from providing
3 pastoral care at the Cornwall Community Hospital, is there
4 any involvement with the Diocese and hospitals in the area?

5 **BISHOP DUROCHER:** No, except I believe the
6 Diocese had one representative sitting on the Board of
7 Administration. So the bishop, I believe, was free to name
8 one member of the Board of Administration.

9 **MR. ENGELMANN:** All right.

10 I'd like to then turn you, sir, to the
11 section on page 15. It's entitled "Policies and Procedures
12 Adopted by the Diocese to Respond to Allegations of Abuse".

13 The first question I have, sir, is it says
14 "Evolutions of Policies and Procedures in the 1980s" and it
15 starts with a reference in September of 1986. So I guess
16 my first question is, are you aware of any policies or
17 procedures that were in place to deal with responding to
18 allegations of abuse prior to that date?

19 **BISHOP DUROCHER:** Apart from what would be
20 in Canon Law I'm not aware that the Diocese had any
21 particular protocol or policy in that regard, no.

22 **MR. ENGELMANN:** So if there -- so there
23 wasn't a written policy or procedure that you know of?

24 **BISHOP DUROCHER:** No.

25 **MR. ENGELMANN:** If there were issues that

1 had to be responded to, then would that be something that
2 would be at the discretion of the bishop?

3 **BISHOP DUROCHER:** It would ---

4 **MR. ENGELMANN:** Do you have some sense as to
5 ---

6 **BISHOP DUROCHER:** There are a few guidelines
7 in Canon Law that the bishop would have to follow, but
8 within those guidelines then the bishop would follow his
9 own discretion.

10 **MR. ENGELMANN:** So cases might be dealt with
11 on an ad hoc basis, a case-by-case basis?

12 **BISHOP DUROCHER:** That's correct.

13 **MR. ENGELMANN:** And would you have any
14 knowledge of an ad hoc process or a case-by-case basis? I
15 realize you didn't become the Bishop until 2002. I'm just
16 thinking pre-1986.

17 **BISHOP DUROCHER:** No, I have no knowledge.

18 **MR. ENGELMANN:** All right.

19 So in 1986 the Presbyteral Council -- I'm in
20 trouble with some of these words -- discusses establishing
21 a committee regarding allegations of abuse?

22 **BISHOP DUROCHER:** Yes.

23 **MR. ENGELMANN:** And you were able to find a
24 document dealing with that from that period of time;
25 correct?

1 **BISHOP DUROCHER:** In 1986 -- what you will
2 have in the next few tabs are minutes from meetings of the
3 Priests Council, and it was at the Priests Council that the
4 issue was raised.

5 **MR. ENGELMANN:** Well, I guess what I wanted
6 to ask first -- and I'm looking at Tab 5, on the right it
7 says "Meeting of the Senate". I'm just looking at the top
8 of the page.

9 **BISHOP DUROCHER:** Yes, sometime ---

10 **MR. ENGELMANN:** At the left it says "Conseil
11 presbytéral".

12 **BISHOP DUROCHER:** Yes.

13 **MR. ENGELMANN:** Is that the same thing?

14 **BISHOP DUROCHER:** Yes. In popular
15 terminology, the Presbyteral Council is sometimes called
16 the Senate of Priests.

17 **MR. ENGELMANN:** Okay.

18 **BISHOP DUROCHER:** So when you see Senate of
19 Priests or Presbyteral Council or Priests Council, it all
20 refers to the same body.

21 **MR. ENGELMANN:** All right.

22 And this is the subset of priests that we
23 talked about earlier, about half of them that sit on this
24 council?

25 **BISHOP DUROCHER:** At the time it would be

1 half. Back then maybe a third or a quarter depending.
2 There are about 10 or 12 priests that form the Presbyteral
3 Council.

4 **MR. ENGELMANN:** And obviously they're named,
5 and there were minutes of meetings of this group?

6 **BISHOP DUROCHER:** That's correct.

7 **MR. ENGELMANN:** All right.

8 So we have a number of issues that are
9 discussed, according to the minutes, and I just wanted to
10 refer you to a couple of points, if I may. I'm looking at
11 the top of page 2. It says:

12 "The Bishop Macdonell deanery has
13 invited Fr. Francis Morrissey to speak
14 to the parish councils and the priests
15 regarding the priority of our diocese
16 and to explain the true role of a
17 parish council."

18 **BISHOP DUROCHER:** Yes.

19 **MR. ENGELMANN:** This is the Reverend
20 Morrissey that we've had affidavits from and other documents
21 from recently?

22 **BISHOP DUROCHER:** That's correct.

23 **MR. ENGELMANN:** All right.

24 So he had some involvement with the Diocese
25 back in time?

1 **BISHOP DUROCHER:** From my reading here he
2 was invited. Whether he came or not, I don't know.

3 **MR. ENGELMANN:** Okay.

4 **BISHOP DUROCHER:** But Father Morrisey was at
5 that time, I recall, crossing the country giving many
6 workshops on the structure of parish councils.

7 If I can place this back in the context, in
8 1983, if you recall, the new Code of Canon Law had been
9 established and according to that new Code, there were new
10 structures that were called for in dioceses and Father
11 Morrisey was one of the resource people crossing the
12 country helping dioceses come to grips with those new
13 structures and their functioning.

14 **MR. ENGELMANN:** And that was a significant
15 revision to the Code of Canon Law that you talk about?

16 **BISHOP DUROCHER:** Absolutely, yes.

17 **MR. ENGELMANN:** All right.

18 Under paragraph 4.1, there's a reference to
19 a committee dealing with -- it's in French, but the
20 spiritual life of priests.

21 **BISHOP DUROCHER:** That's right.

22 **MR. ENGELMANN:** And it says:

23 "Their first concern was the
24 confidentiality of the priest: Where
25 do we stand in front of the law?"

1 **BISHOP DUROCHER:** Yes,

2 **MR. ENGELMANN:** Do you have any idea of what
3 that might have been about at that time?

4 **BISHOP DUROCHER:** Yes. At that time and
5 eventually a few months later, one of the priests of the
6 Diocese would be charged with issues dealing with the
7 sexual abuse of teenagers, and this was of a concern to the
8 priests.

9 **MR. ENGELMANN:** Okay. This was a matter in
10 the public domain?

11 **BISHOP DUROCHER:** Yes.

12 **MR. ENGELMANN:** This was Father Deslaurier?

13 **BISHOP DUROCHER:** That's correct.

14 **MR. ENGELMANN:** And that had taken place
15 prior to September 25th of 1986, the fact that he was
16 charged and convicted?

17 **BISHOP DUROCHER:** He was charged during the
18 summer.

19 **MR. ENGELMANN:** All right. Oh, just the
20 summer of that year?

21 **BISHOP DUROCHER:** As far as I can tell. I'm
22 not sure of the correct date.

23 **MR. ENGELMANN:** All right. And in fact,
24 "L'affaire du Père Deslauriers" is one of the items under
25 "New Business" just on the last page?

1 **BISHOP DUROCHER:** Yes.

2 **MR. ENGELMANN:** And again, there's a
3 reference to sort of what can we do? Can we have a
4 committee to tell us what to do if a similar situation
5 arises? Excuse my poor French, but ---

6 **BISHOP DUROCHER:** No, that's fine. That's
7 fine.

8 **MR. ENGELMANN:** It's something like that
9 that appears to be the minute?

10 **BISHOP DUROCHER:** What could we have done?
11 Could we have a committee that could tell us what to do,
12 that could give us guidelines in front of a similar
13 situation? According to Canadian law, we have no
14 privilege.

15 **MR. ENGELMANN:** Okay. Again, do you know
16 what they're referring to there?

17 **BISHOP DUROCHER:** You had asked me earlier
18 if I was aware of any *ad hoc* dealings with sexual abuse.
19 The only one and that was '86, that cut-off date you gave
20 me, was the way the bishop dealt with Father Deslauriers'
21 case. He set up a committee of investigation and listened
22 to the various complainants who wanted to come and speak to
23 that committee, and that committee made a number of
24 recommendations to the bishop. All of this was done *ad*
25 *hoc*.

1 MR. ENGELMANN: Okay.

2 BISHOP DUROCHER: Some of the priests, I
3 think, felt that we would need to set up some kind of
4 structure that it would not be done *ad hoc*, but we would
5 need -- we would know how to respond to any future
6 allegations. So I think that is what is there.

7 MR. ENGELMANN: So the suggestion would
8 appear to be maybe we should have a committee to set up
9 procedures or policies to deal with this type of situation?

10 BISHOP DUROCHER: Yes, that's correct.

11 MR. ENGELMANN: Is that fair?

12 BISHOP DUROCHER: Yes, that's fair.

13 MR. ENGELMANN: All right. And with respect
14 to the privilege issue, sir, do you know if they're talking
15 about privileged communications with priests or can you
16 tell us ---

17 BISHOP DUROCHER: That would be my
18 conclusion upon reading it, but I wouldn't be able to say
19 more than that.

20 MR. ENGELMANN: All right. I'll just be a
21 moment.

22 THE COMMISSIONER: M'hm.

23 (SHORT PAUSE/COURTE PAUSE)

24 MR. ENGELMANN: Now, the next reference in
25 the outline is to a document entitled "Principles and

1 Procedures for Clergy in Difficulty".

2 BISHOP DUROCHER: Yes.

3 MR. ENGELMANN: Okay. And this was the next
4 document you were able to find that might have dealt with a
5 policy or process for responding to allegations of abuse?

6 BISHOP DUROCHER: Correct.

7 MR. ENGELMANN: Is that fair?

8 BISHOP DUROCHER: Correct.

9 MR. ENGELMANN: All right. And that
10 document we find at Tab 6?

11 BISHOP DUROCHER: That's right.

12 MR. ENGELMANN: And this is a document
13 that's signed by the former Bishop.

14 BISHOP DUROCHER: That's right.

15 MR. ENGELMANN: I understand it's now
16 Bishop Emeritus?

17 BISHOP DUROCHER: Bishop Emeritus of the
18 diocese, that's the correct title.

19 MR. ENGELMANN: And his name is Eugene
20 LaRocque.

21 BISHOP DUROCHER: That's right.

22 MR. ENGELMANN: Do you know if he in fact
23 prepared this document or if he had it prepared for him?

24 BISHOP DUROCHER: I don't know and I have
25 asked him and he doesn't remember.

1 **MR. ENGELMANN:** Okay. So we don't know if
2 there was a committee that did this or an individual?

3 **BISHOP DUROCHER:** No.

4 **MR. ENGELMANN:** All right.

5 **BISHOP DUROCHER:** And just to clarify, I've
6 asked some of the priests and they don't remember either.

7 **MR. ENGELMANN:** Okay. That's 20 years ago.

8 **BISHOP DUROCHER:** Yes, and the document is
9 not dated.

10 **MR. ENGELMANN:** That was going to be my next
11 question actually. The document is not dated. Yet, in
12 your outline, it's between a document I think that's dated
13 in September of 1986 and then another one that's dated in
14 March of 1987.

15 **BISHOP DUROCHER:** Yes.

16 **MR. ENGELMANN:** And the reason you know it
17 happened in between or at least before the March 17th, '87
18 document is because it's discussed?

19 **BISHOP DUROCHER:** Well, it's surmised that
20 that is what is being discussed ---

21 **MR. ENGELMANN:** Well, just before we go into
22 Tab 6, if we turn to Tab 7, ---

23 **BISHOP DUROCHER:** Yes.

24 **MR. ENGELMANN:** --- I was trying to
25 reconcile this. The reference in the minutes of the

1 Council of Priests to anything dealing with allegations of
2 abuse, et cetera, is -- I keep pronouncing this word
3 incorrectly, don't I -- "Diocesan ---

4 **BISHOP DUROCHER:** Diocesan.

5 **MR. ENGELMANN:** Yes, "...procedures in the
6 case of indictable offences" and then it says:

7 "Mgr LaRocque fait une lecture des
8 notes qu'il a préparées pour le comité
9 de la C.E.C.O."

10 **BISHOP DUROCHER:** Correct.

11 **MR. ENGELMANN:** C.E.C.O. is that the ---

12 **BISHOP DUROCHER:** The Ontario Conference of
13 Catholic Bishops.

14 **MR. ENGELMANN:** All right. And sir, it
15 appears to be a document entitled "Diocesan procedures in
16 the case of indictable offences".

17 Were you able to find a document with that
18 name?

19 **BISHOP DUROCHER:** No, there is no document
20 of that name and I ---

21 **MR. ENGELMANN:** Is that why you say you
22 surmised?

23 **BISHOP DUROCHER:** I wouldn't take that title
24 -- I wouldn't take that title as indicating there was a
25 document of that title. Typically, the person who made the

1 notes simply indicates the subject area and then he writes
2 a paragraph.

3 **MR. ENGELMANN:** All right. So did you
4 surmise that the reference was to the previous document?

5 **BISHOP DUROCHER:** That's the best ---

6 **MR. ENGELMANN:** "Principles and Procedures
7 for Clergy in Difficulty"?

8 **BISHOP DUROCHER:** That's the best we can
9 figure out, yes.

10 **MR. ENGELMANN:** All right. So would it be
11 fair to say that as of sometime in early 1987, the document
12 at Tab 6 would have been the policy and/or procedure for
13 dealing with allegations of abuse within the Diocese?

14 **BISHOP DUROCHER:** The minutes say that it is
15 notes that was prepared for a committee of the OCCCB. So
16 the best we can surmise is that Bishop LaRocque would have
17 prepared these notes for himself and that he considered
18 these his own guiding principles. I am not aware that this
19 was ever published or decreed as a policy for the Diocese.

20 **MR. ENGELMANN:** At this time?

21 **BISHOP DUROCHER:** That's correct.

22 **MR. ENGELMANN:** All right. But given that
23 he is the Bishop and given what you told us about -- I
24 won't call it absolute power but ---

25 **BISHOP DUROCHER:** Sure.

1 **MR. ENGELMANN:** --- the great powers a
2 Bishop has within a diocese, if this is his document,
3 that's probably the policy that would be followed. Is that
4 fair?

5 **BISHOP DUROCHER:** That's fair.

6 **MR. ENGELMANN:** All right. So just looking
7 at Tab 6 for a minute, it starts with a reference to
8 Vatican Council II, and there's a reference in -- there's
9 two paragraphs 1s but in the second one, there is something
10 about -- well, it starts:

11 "Each and everyone priest... is joined
12 to his brother priests by a bond of
13 charity, prayer and every kind of
14 cooperation..."

15 It seems to be talking about or it suggests
16 that priests should show compassion for a priest who may
17 have failed. Is that a summary essentially of what that
18 says?

19 **BISHOP DUROCHER:** Yes.

20 **MR. ENGELMANN:** All right. And then it
21 talks in the next paragraph about a dilemma that the bishop
22 and/or clergy might find themselves in because of the harm
23 that can be caused both to the priest and to others who may
24 be victims.

25 **BISHOP DUROCHER:** Correct.

1 **MR. ENGELMANN:** And it then sets out some
2 guiding principles and it refers to some of the types of
3 difficulties that priests or a clergy could find themselves
4 in.

5 **BISHOP DUROCHER:** That's right.

6 **MR. ENGELMANN:** So this is -- would it be
7 fair to say, Bishop Durocher, this is broader than a priest
8 who may have an allegation of child sexual abuse? This
9 deals with priests who may be in some other form of trouble
10 as well.

11 **BISHOP DUROCHER:** Obviously, the document
12 addresses the general problem of priests that have some
13 form of difficulty.

14 **MR. ENGELMANN:** Right. And that could be a
15 problem with the law, all sorts of different types of legal
16 problems.

17 **BISHOP DUROCHER:** Yes, or personal problems
18 also.

19 **MR. ENGELMANN:** All right. And it says
20 under "Procedures", it says:

21 "Upon any complaint the bishop will
22 refer the complainant(s) to a third
23 party..."

24 And it says:

25 "...(another member of the clergy or a

1 person of trust)."

2 Presumably that's someone that the bishop
3 would designate?

4 BISHOP DUROCHER: Yes.

5 MR. ENGELMANN: Unless we see a document
6 that says otherwise?

7 BISHOP DUROCHER: That's correct.

8 MR. ENGELMANN: All right.

9 BISHOP DUROCHER: And that would be
10 following the standard procedures established by Canon Law.

11 MR. ENGELMANN: Okay. And that requires the
12 bishop to deal with any allegation against clergy?

13 BISHOP DUROCHER: Yes, and to name someone
14 to look into the matter. I'm sorry. Let me clarify. The
15 bishop has the responsibility to look into the matter.
16 Typically, he would name someone to do it for him.

17 MR. ENGELMANN: Okay. So typically the
18 bishop would have a designate?

19 BISHOP DUROCHER: Yes.

20 MR. ENGELMANN: And Canon Law requires
21 either the bishop do it or the bishop designates someone to
22 do it?

23 BISHOP DUROCHER: That's right.

24 MR. ENGELMANN: And I wanted to ask you,
25 there's provisions under "Procedures" for "Care" and

1 "Support" and it talks about helping both the member of the
2 clergy and the victim under the "Care" and "Support" items.

3 BISHOP DUROCHER: That's correct.

4 MR. ENGELMANN: And then under "After-care",
5 there's the issue about readmission.

6 BISHOP DUROCHER: Yes.

7 MR. ENGELMANN: And do you know what's meant
8 by that? We talked about the term incardination and
9 excardination yesterday.

10 BISHOP DUROCHER: Yes.

11 MR. ENGELMANN: And as I understand it
12 though, that's the actual -- excardination is the actual
13 removal from the diocese.

14 BISHOP DUROCHER: Yes.

15 MR. ENGELMANN: But there are things short
16 of that that can be done with respect to presumably priests
17 and/or others that may be in trouble.

18 BISHOP DUROCHER: Yes.

19 MR. ENGELMANN: For example, taking away
20 certain duties.

21 BISHOP DUROCHER: Exactly.

22 MR. ENGELMANN: So do you know what is meant
23 here by "re-admitting"?

24 BISHOP DUROCHER: It would mean re-admitting
25 them to the function or to those duties. For example, if a

1 parish priest -- if a parish priest was having problems
2 with alcoholism and was taken away from the parish and sent
3 for treatment, and then the whole question of bringing him
4 back into the responsibility with the community once the
5 treatment is done.

6 **MR. ENGELMANN:** All right. Now, it does say
7 in the next sentence:

8 "For the sake of community, in some
9 instances, incardination in another
10 diocese may be best for all concerned."

11 **BISHOP DUROCHER:** Yes.

12 **MR. ENGELMANN:** So presumably that could be
13 in a situation where a priest or clergy was charged with an
14 indictable offence or it could be some form of personal
15 problem like alcoholism or others that you mentioned?

16 **BISHOP DUROCHER:** It could be because
17 another diocese has facilities for treatment and
18 accompaniment that this diocese doesn't have. It could be
19 that that other diocese has areas of ministry that would be
20 better suited to the person's gifts and talents. It could
21 be that the other diocese has structures of care and
22 support that this diocese doesn't have. So there could be
23 a number of reasons why eventual incardination in another
24 diocese would be beneficial both to the priest and to the
25 community.

1 **MR. ENGELMANN:** Okay. If there is
2 incardination into another diocese, what if any
3 responsibility would the originating diocese have over that
4 priest?

5 **BISHOP DUROCHER:** In what sense?

6 **MR. ENGELMANN:** Well, would there be any
7 ongoing responsibility or direction over that priest or
8 would that priest simply come under the jurisdiction of the
9 new diocese?

10 **BISHOP DUROCHER:** The priest would come
11 under the jurisdiction of the new diocese.

12 **MR. ENGELMANN:** All right. And do you know
13 if -- I don't know. It's not stated here but in
14 incardination cases where there would be a transfer whether
15 there would be information provided upon the transfer to
16 the new diocese?

17 **BISHOP DUROCHER:** There would have to be
18 information provided upon the transfer. The bishop who
19 would be receiving the candidate would want to know all the
20 facts pertaining to the person who is asking for that new
21 incardination.

22 **MR. ENGELMANN:** All right.

23 **BISHOP DUROCHER:** I've just been involved,
24 for example, in the transfer of a candidate. There was
25 extensive communication between the receiving bishop and

1 myself.

2 **MR. ENGELMANN:** All right. So for example,
3 if the other diocese had a treatment centre and you were
4 dealing with someone that had an alcohol or drug
5 dependency, there would be a full disclosure of that type
6 of problem between the bishops?

7 **BISHOP DUROCHER:** Typically that would be,
8 yes.

9 **MR. ENGELMANN:** Would that also be the case
10 if there was some kind of a criminal charge involved to
11 your knowledge?

12 **BISHOP DUROCHER:** Certainly, yes.

13 **MR. ENGELMANN:** Okay. Now, there is a
14 reference to confidentiality again and -- well, just before
15 we get there, there's a reference to "canonical and legal
16 procedures also attend the more serious cases". So the
17 canonical procedure, that would be a procedure that would
18 be followed under Canon Law?

19 **BISHOP DUROCHER:** I'm sorry, where are you?

20 **MR. ENGELMANN:** I'm sorry; I'm under 4,
21 "Aftercare" ---

22 **BISHOP DUROCHER:** Yes.

23 **MR. ENGELMANN:** --- and I'm in Tab 6 of the
24 document you were looking at.

25 **BISHOP DUROCHER:** Yes, yes.

1 **MR. ENGELMANN:** The paragraph after the
2 paragraph we have just read from, it says, "It is
3 recommended" ---

4 **BISHOP DUROCHER:** "It is recommended," yes.

5 **MR. ENGELMANN:** "...that following
6 canonical and legal procedures also
7 attend the more serious cases..."

8 **BISHOP DUROCHER:** Yes.

9 **MR. ENGELMANN:** And it then goes down
10 through them.

11 **BISHOP DUROCHER:** Yes.

12 **MR. ENGELMANN:** I don't know if you're able
13 to tell us, but at this point in time, the mid-'80s, would
14 a more serious case include an allegation of sexual abuse
15 of some sort?

16 **BISHOP DUROCHER:** Yes, that's what happened
17 in the case of Deslauriers, for example.

18 **MR. ENGELMANN:** So immediate suspension,
19 immediate treatment and support, et cetera?

20 **BISHOP DUROCHER:** Yes, suspension is a
21 canonical expression.

22 **MR. ENGELMANN:** What does that mean?

23 **BISHOP DUROCHER:** It means that a priest can
24 no longer celebrate the sacraments.

25 **MR. ENGELMANN:** All right.

1 And would the priest, in those
2 circumstances, have any ongoing contact with parishioners?

3 The reason I ask is we went through this
4 with the last three witnesses from the school board and
5 they had a policy whereby if an employee of the school
6 board had contact with children and they were charged with
7 a criminal offence that suggests they might pose a risk to
8 children, they were removed from any duties that would have
9 contact with children. So they might have sort of a
10 special project or they might be at home or whatever.

11 So are we talking about something similar to
12 that here when you say immediate suspension?

13 **BISHOP DUROCHER:** When a priest is suspended
14 and no longer can exercise any ministry, typically, he
15 would be asked to leave the place where he would have
16 exercised that ministry and he is not allowed to enter into
17 ministry anywhere else then.

18 **MR. ENGELMANN:** Okay. Now, there are other
19 issues that are listed further down the page. It says, for
20 example:

21 "Confidentiality is not safeguarded in
22 the courts. Legal advise and
23 assistance..."

24 That must be "advice".

25 "...and assistance is available to all

1 members of the clergy involved in
2 criminal investigations."

3 And it goes on.

4 Sir, at this point in time there is no
5 reference in this policy or these notes about
6 responsibilities under the *Child Welfare Act* or the *Child*
7 *and Family Services Act*.

8 **BISHOP DUROCHER:** That's correct.

9 **MR. ENGELMANN:** Nor is there any reference
10 to contacting the police.

11 **BISHOP DUROCHER:** That's correct.

12 **MR. ENGELMANN:** Do you know if there was any
13 policy in place back in '86-'87 dealing with those issues?

14 **BISHOP DUROCHER:** This is the only policy we
15 found in our records.

16 **MR. ENGELMANN:** All right.

17 Because at that point in time there was a
18 duty to report for professionals, including priests, if
19 they suspected or had any reasonable basis of child abuse.

20 **BISHOP DUROCHER:** M'hm.

21 **MR. ENGELMANN:** So I was just wondering if
22 that was addressed anywhere?

23 **BISHOP DUROCHER:** We didn't find it in our
24 records, no.

25 **MR. ENGELMANN:** So we've referred briefly to

1 Tab 7. That was really the only reference in the tab to
2 this issue involving response to allegations of abuse, at
3 Tab 6?

4 **BISHOP DUROCHER:** Correct.

5 **MR. ENGELMANN:** You're not able to say --
6 for example, I'm looking at Tab 5, "Criteria for Accepting
7 Candidates and Priests to the Diocese" -- whether there
8 were any -- sorry, it's Tab 7, paragraph 5.

9 **BISHOP DUROCHER:** Yes.

10 **MR. ENGELMANN:** My apologies. Whether that
11 particular item had anything to do with this issue?

12 **BISHOP DUROCHER:** I have no idea.

13 **MR. ENGELMANN:** All right.

14 Then at Tab 8, you talk about in your
15 outline at page 15 that the CCCB is looking -- or studying
16 issues of responding to allegations of abuse and before a
17 meeting of the OCCB, a document is prepared and distributed
18 to local dioceses.

19 The document that's prepared and distributed
20 to local dioceses, do you know if it includes everything in
21 this tab or if it just includes the document entitled
22 "Proposed Procedure" which starts at about the fourth page
23 in?

24 **BISHOP DUROCHER:** The "Proposed Procedure"
25 and the comments of Mr. King that come before it, I

1 believe, is the total package that was sent to the
2 dioceses.

3 **MR. ENGELMANN:** What about the page at the
4 back of the tab, and how does it relate to those other two
5 documents? That's a page in French concerning -- articles
6 in the Globe and Mail ---

7 **BISHOP DUROCHER:** Yes.

8 **MR. ENGELMANN:** --- dealing with the issue.

9 **BISHOP DUROCHER:** From my reading of it this
10 would have been, at the back of that tab, that page would
11 have been the cover letter accompanying the documentation
12 sent to the bishops.

13 **MR. ENGELMANN:** All right.

14 **BISHOP DUROCHER:** Monseigneur Robitaille, as
15 Secretary General of the CCCB at that time, and so he's
16 forwarding basically what our notes -- what was given to
17 the Permanent Council of the CCCB in November as an agenda
18 item. He was forwarding that to the bishops.

19 **MR. ENGELMANN:** Okay. Well, I'm a little
20 confused just because of the date.

21 **BISHOP DUROCHER:** Yes.

22 **MR. ENGELMANN:** So bear with me.

23 The first page, "Ordre du jour" ---

24 **BISHOP DUROCHER:** Yes.

25 **MR. ENGELMANN:** --- says "Permanent Council

1 - 25th and 26th November 1987".

2 BISHOP DUROCHER: Correct.

3 MR. ENGELMANN: The document at the back is
4 April 8th, '88.

5 BISHOP DUROCHER: That's right.

6 MR. ENGELMANN: And then the documents
7 inside, the letter is dated July of '87, and I'm not sure
8 when the other document -- yes, August of '87 ---

9 BISHOP DUROCHER: That's right.

10 MR. ENGELMANN: --- by Francis Morrisey.

11 So this is a package that's being sent in
12 the spring of '88?

13 BISHOP DUROCHER: That's right.

14 MR. ENGELMANN: All right.

15 So what is the -- what do we see at the
16 first page of the tab?

17 BISHOP DUROCHER: What you're seeing at the
18 first page of the tab is the photocopy of the agenda item
19 number 15 of the meeting of the Permanent Council of the
20 25th and 26th of November of 1987.

21 MR. ENGELMANN: So then these -- this
22 package gets sent to dioceses in Ontario in the spring of
23 '88?

24 BISHOP DUROCHER: I expect they were sent to
25 all the dioceses of Canada in 1988.

1 **MR. ENGELMANN:** And where is it supposed to
2 go from there? Does it go back to the CCCB with input from
3 dioceses on the document? Is that the point?

4 **BISHOP DUROCHER:** No, the letter simply says
5 that this is not an official document of the CCCB. It was
6 prepared by Father Franc Morrisey. The Permanent Council,
7 at its meeting in November '87, found it to be useful and
8 has asked that it be sent to the members -- that means the
9 bishops --- "à titre de renseignement", which means for
10 information purposes.

11 **MR. ENGELMANN:** Now, sir, I believe, if I'm
12 not mistaken, that the proposed procedure by Francis
13 Morrisey is a second draft, that there's an earlier draft
14 of this document and that the proposed procedure we're
15 looking at here has incorporated some of the references
16 from this lawyer, Jeffrey King. Do I have that correct?

17 **BISHOP DUROCHER:** I'm not sure of that.

18 **MR. ENGELMANN:** All right. Okay.

19 But if I can find the earlier draft -- I may
20 do that -- I'm pretty sure that there was an earlier draft
21 of Mr. Morrisey's letter because in looking at the two
22 letters, some of the suggestions made by Mr. King appear to
23 have been adopted in the "Proposed Procedure" by Mr.
24 Morrisey. I might take you to a couple of examples.

25 **BISHOP DUROCHER:** Sure.

1 **MR. ENGELMANN:** But I don't know if a lot
2 turns on it.

3 So what we have is we have Francis Morrisey
4 and he's being -- he's been tasked to do this by whom
5 again?

6 **BISHOP DUROCHER:** From the minutes of the
7 Permanent Council it's written that this was the work of
8 the Commission. The Canon Law Commission of the CCCB
9 studied this issue. So I suppose Father Morrisey's
10 document was given to the Commission, the Canon Law
11 Commission, to be studied and it is the Canon Law
12 Commission that is forwarding it to the Permanent Council
13 with the suggestion that it be sent around.

14 **MR. ENGELMANN:** All right.

15 **THE COMMISSIONER:** You may want to pick a
16 time when you want to take a break, Mr. Engelmann.

17 **MR. ENGELMANN:** Okay. Perhaps at 11:00, if
18 that suits you?

19 **THE COMMISSIONER:** Pardon me?

20 **MR. ENGELMANN:** Perhaps at 11:00?

21 **THE COMMISSIONER:** Sure.

22 **MR. ENGELMANN:** In the letter from the
23 lawyer, sir, right at the beginning it says:

24 "I am in receipt of a letter from
25 Reverend Franc Morrisey regarding a

1 draft document which he prepared for
2 the Canadian Conference of Catholic
3 Bishops."

4 So the lawyer is writing on July 15th. So presumably he
5 would have had an earlier draft of the document we see
6 attached ---

7 BISHOP DUROCHER: Yes.

8 MR. ENGELMANN: --- from Mr. Morrissey?

9 BISHOP DUROCHER: Yes.

10 MR. ENGELMANN: All right.

11 I want to ask you a few questions about
12 this. First of all, this was a proposed procedure;
13 correct?

14 BISHOP DUROCHER: Correct.

15 MR. ENGELMANN: And again, this was a
16 proposed procedure that's given to the Canadian Conference?

17 BISHOP DUROCHER: It's given to the Canadian
18 Conference -- to the Canon Law Commission of the Canadian
19 Conference, which sends it up to the Permanent Council.

20 MR. ENGELMANN: All right.

21 So this procedure is not binding on any
22 diocese?

23 BISHOP DUROCHER: No.

24 MR. ENGELMANN: Perhaps it might have some
25 persuasive value or influential -- I think that was your

1 term, influential value ---

2 BISHOP DUROCHER: Yes.

3 MR. ENGELMANN: --- but a proposed procedure
4 and even an adopted procedure by the CCCB would not be
5 binding upon a diocese?

6 BISHOP DUROCHER: The CCCB could not adopt a
7 protocol for the Canadian dioceses, no.

8 MR. ENGELMANN: Right.

9 THE COMMISSIONER: I'm sorry; say that
10 again.

11 BISHOP DUROCHER: The CCCB cannot adopt a
12 policy which becomes mandatory for the dioceses of Canada.

13 THE COMMISSIONER: All right.

14 MR. ENGELMANN: So we have Francis Morrisey
15 asked to do this, and you've already told us about his
16 qualifications and he's certainly an eminent expert in
17 canon law.

18 Do you know if he is also an expert in
19 criminal law or any of these other matters?

20 BISHOP DUROCHER: I'm not sure about his
21 expertise in criminal law.

22 MR. ENGELMANN: All right.

23 And the document appears to be an internal
24 protocol, if I can call it that, or an internal procedure.
25 By that I mean not a multiparty procedure but something

1 that a diocese might adopt as a procedure.

2 **BISHOP DUROCHER:** That's correct.

3 **MR. ENGELMANN:** All right.

4 And again, I didn't note any reference to
5 dealing with the Children's Aid Society, for example, or
6 the duty to report that existed at the time with respect to
7 professionals or, for that matter, any person.

8 **BISHOP DUROCHER:** Duty to report is a
9 provincial jurisdiction. This is a national document. So
10 that would depend on each province. I would imagine each
11 province -- each diocese would have to deal with that
12 issue. So you wouldn't find that in a national document.

13 **MR. ENGELMANN:** Okay. But if every province
14 had duties to report and if priests were professionals, you
15 might expect it; fair enough?

16 **BISHOP DUROCHER:** Yes, fair.

17 **MR. ENGELMANN:** Nor did I see any reference
18 to police investigations, although there are certainly
19 comments about engaging counsel.

20 **BISHOP DUROCHER:** Correct.

21 **MR. ENGELMANN:** Now, Mr. Morrisey talks
22 about a team approach and he talks about a team of
23 competent persons, and I'm looking at the middle of -- and
24 I'm on the first page, right there on the screen. If we
25 can move the screen up a little bit, "A team of competent

1 persons" and it appears that he is proposing this procedure
2 for individual diocese in a sense that he is suggesting
3 that the Bishop or Diocesan Bishop would appoint a team and
4 deal with this on a team approach. Is that fair?

5 **BISHOP DUROCHER:** That's correct, yes.

6 **MR. ENGELMANN:** Is that how you would expect
7 this to be dealt with? I mean, if the procedures were to
8 be adopted, that it would be done diocese by diocese?

9 **BISHOP DUROCHER:** Yes. This was sent out to
10 the dioceses. Then dioceses were free to establish their
11 own guidelines for themselves adhering to this suggestion
12 if they were wanting to do this.

13 **MR. ENGELMANN:** Now, sir, there is a
14 reference to -- and I'm looking at the second page of
15 Reverend Morrissey's document -- when a denunciation is made
16 -- and is a denunciation essentially a public accusation or
17 is there some preferred definition to that word?

18 **BISHOP DUROCHER:** Not that I'm aware of.

19 **MR. ENGELMANN:** All right.

20 So a denunciation doesn't necessarily mean a
21 criminal charge. It could simply be an allegation?

22 **BISHOP DUROCHER:** That's how I would
23 interpret it, yes.

24 **MR. ENGELMANN:** And it suggests that once a
25 denunciation is made that -- it suggests a procedure for

1 once that happens. Correct?

2 BISHOP DUROCHER: Yes.

3 MR. ENGELMANN: And I am looking at the
4 bottom of that page and onto the following page.

5 BISHOP DUROCHER: Yes.

6 MR. ENGELMANN: And it talks about the fact
7 that the diocese should provide the accused cleric
8 immediately with a trial lawyer who is distinct from the
9 diocesan attorney.

10 BISHOP DUROCHER: Correct.

11 MR. ENGELMANN: Do you have any idea why
12 that was suggested and proposed? It was also proposed by
13 the lawyer, Mr. King.

14 BISHOP DUROCHER: Yes. I personally, no. I
15 think this is the kind of question that would be better
16 addressed to Reverend Morrissey to explain the rationale
17 behind his suggestions.

18 MR. ENGELMANN: Fair enough.

19 I understand the policy of the Diocese then,
20 I'm not sure if that is still the case today, was to
21 provide counsel to a priest or a member of the clergy if
22 they were charged with an indictable offence.

23 BISHOP DUROCHER: Was the policy in this
24 Diocese, yes.

25 MR. ENGELMANN: Is that still the policy

1 today?

2 **BISHOP DUROCHER:** Yes, it is.

3 **MR. ENGELMANN:** It then talks about a
4 meeting to be held with diocesan bishop, diocesan attorney,
5 accused priest and his lawyer and it goes on and it says:

6 "At no time after a denunciation has
7 been made should the Diocesan Bishop or
8 any of the priests involved hear the
9 sacramental confession of the accused
10 cleric".

11 Again, I realize you didn't write this, but
12 do you have any idea why that is in this proposed
13 policy?

14 **BISHOP DUROCHER:** Yes, that would be pretty
15 clear. The sacramental confession involves the sacramental
16 seal, anything that is said in confession then becomes the
17 person who hears or receives that confession is bound by
18 Canon Law not to divulge any information that he receives
19 within the sacrament.

20 **MR. ENGELMANN:** Now at this point in time,
21 Bishop Durocher, the law in Ontario, the *Child and Family*
22 *Services Act* required even priests to report and had a
23 provision that said that privileged and or confidentiality
24 were not exempted. Do you know if there was anything in
25 the policy to deal with that potential conflict?

1 **BISHOP DUROCHER:** Is there anything in this
2 policy, in Father Morrissey's text?

3 **MR. ENGELMANN:** Or a policy at that time to
4 deal with that potential conflict?

5 **BISHOP DUROCHER:** No, I am not aware of
6 anything, no.

7 **MR. ENGELMANN:** And presumably that
8 potential conflict still exists today, if there is a duty
9 in the civil law to report, if one has reasonable basis for
10 suspicion of child abuse and a priest hears about that in
11 confession ---

12 **BISHOP DUROCHER:** A priest is not allowed to
13 divulge in public what is -- he is not allowed to divulge
14 at all what is heard in confession.

15 **MR. ENGELMANN:** Even if that gives him a
16 reasonable basis to suspect a child is being abused or
17 about to be abused?

18 **BISHOP DUROCHER:** That's correct.

19 **MR. ENGELMANN:** And that would be the policy
20 of this Diocese?

21 **BISHOP DUROCHER:** That's not policy, that's
22 -- it's understood as being intrinsic to the Sacrament of
23 Confession.

24 **MR. ENGELMANN:** So that would be the case
25 whether it was in this Diocese or in another diocese?

1 **BISHOP DUROCHER:** Anywhere in the world,
2 yes.

3 **THE COMMISSIONER:** But number 4 says,
4 "At no time after a denunciation has
5 been made should the Diocesan..."

6 I have trouble with that, diocèse --

7 "...or any of the priests involved hear
8 the sacramental confession..."

9 So I take it that if someone wanted to
10 confess, to go to confession, he would be steered to
11 someone outside the diocese?

12 **BISHOP DUROCHER:** Outside the diocese or a
13 priest who is not involved in the investigation of the
14 issue. Where it says here, "the priests involved", I
15 understand it to mean the priests involved in the
16 investigation of the issue because there is a suggestion
17 that the bishop name someone to be dealing with this.

18 **THE COMMISSIONER:** Well, it's "priests",
19 plural.

20 **BISHOP DUROCHER:** Yes.

21 **THE COMMISSIONER:** I suppose ---

22 **BISHOP DUROCHER:** So there can be more than
23 one priest involved with the investigation.

24 **MR. ENGELMANN:** Mr. Commissioner, maybe this
25 would be an appropriate time to take our morning break.

1 **THE COMMISSIONER:** Great, thank you.

2 We will come back in 15 minutes.

3 **THE REGISTRAR:** Order. All rise. À
4 l'ordre; veuillez vous lever.

5 The hearing will reconvene in 15 minutes.

6 --- Upon recessing at 11:01 a.m./

7 L'audience est suspendue à 11h01

8 --- Upon resuming at 11:25 a.m./

9 L'audience est reprise à 11h25

10 **THE REGISTRAR:** This hearing of the Cornwall
11 Public Inquiry is now in session.

12 Please be seated. Veuillez vous asseoir.

13 **THE COMMISSIONER:** Yes, sir.

14 **MR. ENGELMANN:** Mr. Commissioner, just
15 before I carry on with some questions, Mr. Sherriff-Scott
16 wishes to address you.

17 **THE COMMISSIONER:** Oh, all right.

18 Yes, sir?

19 **MR. SHERRIFF-SCOTT:** Yes, thank you, Mr.
20 Commissioner.

21 Just by way of what I would describe as a
22 caution/objection on the subject of the issue of a proposed
23 assumption to the line of questioning, which has just taken
24 place, which is that there is a conflict between the CFSA

1 and the duties of confidentiality that are imbedded in the
2 Sacrament of Confession, I just want to make these points
3 to cast the context and by way of caution for what may
4 follow as well as a form of objection in a sense.

5 First, I would say that certainly the issue
6 to the extent that's reflected in these policies is open
7 for analysis and probing by the Inquiry, but there is a
8 premise here that is being assumed in the line of
9 questioning, which is that there is a conflict in law
10 between the CFSA and the Sacrament of Confession or
11 Reconciliation as it is now called.

12 I would submit that that question is a live
13 question and has not been determined and for a number of
14 reasons.

15 **THE COMMISSIONER:** Has not been determined
16 in what, in law?

17 **MR. SHERRIFF-SCOTT:** Has not been determined
18 in law, although some courts in this country have
19 determined that there is such a privilege in connection
20 with confession, but I would make these points:

21 First, as you know, the Charter guarantees
22 freedom of religion, which includes religious practice and,
23 therefore, the Sacrament of Confession. The Supreme Court
24 of Canada in the *Gruenke Case* indicated that as a general
25 class of privilege, it would not extend a religious

1 privilege but indicated quite clearly that on a case-by-
2 case basis one may exist and cited the Roman Catholic
3 Sacrament as a possible illustration of the application of
4 the privilege. That is to the admissibility between any
5 civil and criminal proceedings of information arising from
6 the confession.

7 **THE COMMISSIONER:** But the way I understand
8 that case was that whether or not the Wigmore test applies
9 and compelling a priest to give evidence.

10 **MR. SHERRIFF-SCOTT:** Correct.

11 **THE COMMISSIONER:** All right.

12 But the CFSA is a different thing.

13 **MR. SHERRIFF-SCOTT:** But I am coming to my
14 point.

15 **THE COMMISSIONER:** Okay.

16 **MR. SHERRIFF-SCOTT:** So the Supreme Court of
17 Canada said in that environment at least the issue is up
18 for grabs, it will be determined on a case-by-case basis
19 depending on the facts and the validity of the application
20 of the privilege. Our Court of Appeal in the *Scientology*
21 Case around the same time recognized as well and also cited
22 the privilege, in that the potential for the application of
23 privilege to the Sacrament in this question.

24 And just to finish what's happened in a case
25 in Saskatchewan called, *Spence* at the same time the Supreme

1 Court of Canada released its reasons, it applied the
2 privilege to a criminal proceeding in which there was a
3 confession to a Catholic chaplain in a jail setting. The
4 privilege is recognized in a number of U.S. states as well
5 as Australia and Wales.

6 And my point about this is that the question
7 of the potential conflict between the obligation to
8 disclose or the compulsion to disclose under oath is the
9 same, and the duty under the CFSA to the extent it
10 conflicts with section 2(a) of the Charter has yet to be
11 determined.

12 And so I would submit to you in terms of the
13 line of questioning simply as a caution for contextual
14 approach that that is a question to be determined by a
15 competent board of jurisdiction not in an evidentiary
16 vacuum, and that will presumably happen one day. So I
17 simply caution you that there is a premise behind the line
18 of questioning that I am concerned with, and it may be
19 further developed by other counsel, but I wanted to alert
20 you to my concern.

21 Thank you.

22 **THE COMMISSIONER:** Fine.

23 **MR. ENGELMANN:** Just a brief comment, if I
24 may. I don't see a conflict in the law as a lawyer who has
25 had to challenge law based on the Charter on several

1 occasions. The law as it stands, the law of the Government
2 of Ontario is very clear on the duty to report and it
3 exempts privileged and confidential information.
4 Therefore, you heard evidence earlier this week from the
5 school board officials who would receive information in the
6 context of confidentiality, guidance counsellors,
7 psychologists, social workers where there would be an
8 expectation of privacy, and the law, as it stands in
9 Ontario under the *Child and Family Services Act* clearly
10 requires all people who have reasonable basis or suspicion
11 to report with one limited exception, and that's a limited
12 form of solicitor-client privilege.

13 Now, sometime in the future, there may be a
14 Charter challenge based on freedom of religion, but the
15 current law in Ontario, with the greatest of respect to my
16 friend, I think is quite clear, at least the civil law.

17 **THE COMMISSIONER:** M'hm. Well, are you
18 pursuing any further questions on this line?

19 **MR. ENGELMANN:** No.

20 **THE COMMISSIONER:** All right.

21 Well we'll leave it to -- well, I see Mr.
22 Manson is -- oh, I thought he was getting ready to get up
23 and make some comments. No? Are there any other comments
24 arising out of this, out of Mr. Scott's comments or I guess
25 we will cross the path if need be during cross-examination.

1 Is that a fair comment?

2 All right.

3 **BISHOP PAUL-ANDRÉ DUROCHER, Resumed/Sous le même serment:**

4 **--- EXAMINATION IN-CHEF/INTERROGATOIRE EN-CHEF PAR MR.**

5 **ENGELMANN (CONT'D/SUITE):**

6 **MR. ENGELMANN:** Bishop Durocher, I just
7 wanted to ask a couple more questions then on Tab 8, if I
8 could.

9 The only reference I could find to dealing
10 with victims or alleged victims was the reference in the
11 conclusion.

12 **THE COMMISSIONER:** Before we go there.

13 **MR. ENGELMANN:** Yes.

14 **THE COMMISSIONER:** Mr. Engelmann, I'm sorry,
15 paragraph 6, and I just -- it says at the bottom "Possibly
16 a precept is given".

17 What is a "precept"?

18 **MR. ENGELMANN:** Paragraph 6.

19 **BISHOP DUROCHER:** Sorry, yes. A precept is
20 a particular law. It is a particular decree aimed at one
21 person rather than -- a Bishop can make a law for his whole
22 community, but he can also make a law for one person. It
23 becomes -- in Canon Law it's a law that is addressed to one
24 person.

25 **THE COMMISSIONER:** Okay. So in the context

1 of paragraph 6:

2 "The cleric is to be given an immediate
3 leave of absence; likewise, an
4 appropriate place should be chosen for
5 him to reside pending the outcome of
6 the investigation. At no time should
7 he return to the parish where he is
8 assigned..." "...(Possibly a precept...)

9 So you would -- a Bishop would order this
10 person to live here, do this, do that, do not do this, do
11 not do that?

12 **BISHOP DUROCHER:** Exactly and make it in the
13 form of a decree and sign it, so that if he breaks it, then
14 he is actually breaking not only the Bishop's request but a
15 law; so it becomes a penal manner within Canon Law.

16 **THE COMMISSIONER:** Okay. Thank you.

17 **BISHOP DUROCHER:** May I take this
18 opportunity just to clarify your first question earlier.

19 **THE COMMISSIONER:** Which was?

20 **BISHOP DUROCHER:** Which was on, you know,
21 the priests involved.

22 **THE COMMISSIONER:** M'hm.

23 **BISHOP DUROCHER:** At number 4 on the first
24 page, paragraph 4 it says:

25 "The diocesan bishop should appoint one

1 or more priests who have the
2 responsibility for conducting the
3 preliminary investigation..."

4 So I take it for granted in reading this
5 that he is referring to those priests and basically saying
6 your investigatory responsibility would impede you from
7 doing the ministry of Reconciliation; at the same time
8 there is a conflict there so don't get involved in that.
9 And perhaps I had not read this clearly because this was
10 never applied in our Diocese. I didn't think there would
11 be many questions on it, but I would just like to point out
12 that paragraph 3 on that first page also says that:

13 "The team should establish a basic
14 policy or contingency plan which would
15 take into account existing Church and
16 civil laws applicable to the territory
17 (for instance, in matters of reporting
18 obligations...)

19 So Mr. Morrissey did, indeed, refer to the
20 reporting obligation clarifying that they would have to be
21 taken into account in a diocesan policy.

22 **MR. ENGELMANN:** Sir, this policy was never
23 adopted in the Diocese of Alexandria-Cornwall?

24 **BISHOP DUROCHER:** It was not, no.

25 **MR. ENGELMANN:** To your knowledge, was it

1 adopted elsewhere?

2 **BISHOP DUROCHER:** I don't know.

3 **MR. ENGELMANN:** All right.

4 And it has some reference to assistance on
5 the last page, page -- well, page 4.

6 "Assistance should be continued in
7 various ways for the child or children
8 involved, for the family and so forth."

9 That's under a caption "If Sexual Abuse Has Been Verified".

10 Am I understanding correctly that the sexual
11 abuse would have to be verified by some form of trial? Is
12 that what is being proposed here?

13 **BISHOP DUROCHER:** I would imagine that if
14 there is no criminal case or civil case then that would
15 determine -- if there is an investigation and the bishop
16 decides to proceed by canonical trial, then yes, it would
17 be the result of a canonical trial.

18 **MR. ENGELMANN:** There are a number of
19 references in the Morrissey document to -- for example, on
20 page 4 as well, "Other Factors to be Noted".

21 It says:

22 "In contemplation of litigation and for
23 the benefit of the legal counsel of the
24 Diocese it is recommended that a
25 written record be kept of all steps

1 taken at the diocesan level from the
2 moment the denunciation was first
3 received. Care should be taken to
4 protect the confidentiality of such
5 documentation, depending to a large
6 extent on the prevailing civil
7 legislation. The written record shall
8 be endorsed as being prepared for the
9 benefit of and assistance of the
10 diocesan counsel."

11 There are a number of references as well --
12 for example, in the King letter, if we look at paragraph 4
13 of that letter. it talks about the law of privilege. Yes,
14 you're there.

15 It says:

16 "I have advised him that in my opinion
17 it is essential that there be a
18 thorough understanding by the Bishops
19 of the laws of privileged evidence in
20 our courts.

21 And it says:

22 "Evidence that is created either
23 verbally, visually or by way of written
24 record that is communicated to a lawyer
25 in anticipation of litigation is

1 privileged information. There is no
2 law in Canada that will compel
3 disclosure of such evidence. It is
4 therefore essential that a situation be
5 created whereby no Bishop or diocesan
6 authority could be compelled to appear
7 in court to give evidence of any
8 statement given either verbally or in
9 writing relating to a denunciation."

10 And it goes on to say:

11 "Under the laws in effect in each
12 Province in Canada no one can any
13 longer expect that there is any
14 privileged information within the
15 church and this would include what is
16 called Secret Archives of any diocese.
17 I suggest that paragraph 3 replace
18 paragraph 2 in that the diocese should
19 provide the accused cleric immediately
20 with a trial lawyer who is distinct
21 from the diocese's attorney."

22 Then it goes on and says that, you know, the meeting that
23 should be held, if counsel is present, then,

24 "Any evidence obtained by way of a
25 statement from the accused could not

1 then be compelled as evidence in any
2 court of law."

3 And it goes on, on the next page to say in paragraph 5:

4 "By having the lawyers attend such a
5 meeting the laws of evidence would then
6 apply and the information obtained
7 could then be considered privileged
8 information. At all times the diocesan
9 lawyer should be made a member of such
10 an inquiry in order that the
11 information would remain privileged."

12 So there is a number of areas in both the
13 Morrisey document and then in King's letter on top that
14 talks about how to do things to maintain privilege so that
15 information or evidence won't be disclosed.

16 Now, you've told us that this policy of
17 Frank Morrisey's wasn't adopted in this Diocese. What
18 about this approach that you should involve lawyers, have
19 lawyers at all meetings so that evidence is not
20 compellable; has that policy or procedure been followed by
21 this Diocese?

22 **BISHOP DUROCHER:** Not that I am aware of,
23 no.

24 **THE COMMISSIONER:** The secret archives, have
25 they been -- do you have access to those archives through

1 this Diocese?

2 **BISHOP DUROCHER:** If there were secret
3 archives, I am the one that would have access to them.
4 There are no secret archives in the Diocese of Alexandria-
5 Cornwall.

6 **THE COMMISSIONER:** Okay. Well, were there
7 some -- are you saying there have never been any?

8 **BISHOP DUROCHER:** I'm not aware of how
9 things were structured in the past in that regard, but I
10 know that there are presently no secret archives in the
11 Diocese.

12 **THE COMMISSIONER:** So how would someone know
13 -- I'll be blunt. In the 1980s and for the period that is
14 essential to this Inquiry, how would someone find out if
15 there were any?

16 **BISHOP DUROCHER:** You would have to ask the
17 emeritus bishop, the one who was bishop at that time.

18 **THE COMMISSIONER:** Well, can ---

19 **BISHOP DUROCHER:** But if I can elaborate, I
20 can tell you that his practice, at least as I can see, was
21 rather -- if he found material was particularly touchy, he
22 would put it in say a priest's file within an envelope
23 noting that this is only to be opened by the bishop. So
24 that would be, I guess, the equivalent to secret archives,
25 you know.

1 So there were a few envelopes like that,
2 which in the process of disclosure I opened and if there
3 was anything that was relevant to this I brought it
4 forward.

5 **THE COMMISSIONER:** All right.

6 Thank you.

7 **MR. ENGELMANN:** Thank you.

8 There is no term in Canon Law for secret
9 archives, is there?

10 **BISHOP DUROCHER:** There is, yes.

11 **MR. ENGELMANN:** Oh, there is.

12 **BISHOP DUROCHER:** Yes.

13 **MR. ENGELMANN:** How was that defined, to
14 your knowledge?

15 **BISHOP DUROCHER:** Well, there are archives
16 that deal with what would be called internal forum issues
17 that are not of the public domain in -- if I could give an
18 example.

19 **MR. ENGELMANN:** Sure.

20 **BISHOP DUROCHER:** Let's say I discover that
21 a marriage was invalid in the Catholic Church, a
22 sacramental marriage was invalid because the priest who
23 presided at the wedding did not have the jurisdiction to
24 preside at that wedding and neither of the couple know
25 this, all right, there is a procedure called *sanatio in*

1 *radice*. Through a decree, I can -- it's a juridic fiction
2 but I can basically sanate the invalid marriage
3 retroactively in that case. I wouldn't want this to be
4 known, not even by the couple who doesn't know that their
5 marriage -- that decree would go into secret archives
6 because it is internal forum material.

7 **MR. ENGELMANN:** And would that then remain
8 the property of the Diocese or ---

9 **BISHOP DUROCHER:** It would remain ---

10 **MR. ENGELMANN:** --- would that go somewhere
11 else?

12 **BISHOP DUROCHER:** No, it would remain the
13 property of the Diocese. Typically there would be a file
14 called secret archives, and ---

15 **MR. ENGELMANN:** Is that something ---

16 **BISHOP DUROCHER:** --- typically ---

17 **MR. ENGELMANN:** Sorry.

18 **BISHOP DUROCHER:** --- only the bishop would
19 have access to those files.

20 **MR. ENGELMANN:** Well, that was my question.
21 Would it just be the bishop or -- and I can't remember
22 which ---

23 **BISHOP DUROCHER:** The chancellor.

24 **MR. ENGELMANN:** The chancellor also had the
25 role of archivist, if I believe?

1 **BISHOP DUROCHER:** He is archivist, but I
2 believe he is not entitled to go into the secret archives
3 when there are secret archives in the Diocese.

4 **MR. ENGELMANN:** So you're understanding of
5 the Canon Law would be that it would just be the bishop?

6 **BISHOP DUROCHER:** That correct.

7 **MR. ENGELMANN:** Okay. Thank you.

8 So sir, if we can then turn to the next
9 point on your outline, and that refers to a meeting that
10 took place in September of '89 and that's found at Tab 9.
11 At Tab 9 we have the minutes. Again, this is the
12 Presbyteral Council, and I believe the relevant portion is
13 page 2, paragraph 6.

14 **BISHOP DUROCHER:** Yes.

15 **MR. ENGELMANN:** This is the committee
16 dealing with cases of sexual aggression. Is that -- I
17 don't know if I got the -- or sexual abuse.

18 **BISHOP DUROCHER:** Yes.

19 **MR. ENGELMANN:** And there is a "rapport mis
20 à jour". Just this is the report that essentially is being
21 given. Is there a committee at this stage or is this
22 clear?

23 **BISHOP DUROCHER:** There does not seem to be
24 a committee, no.

25 **MR. ENGELMANN:** Okay. And there is a draft

1 document, as I understand it, presented for the first time
2 to a number of dioceses from your insurer?

3 BISHOP DUROCHER: That's correct.

4 MR. ENGELMANN: Is that what's being
5 described in paragraph 6?

6 BISHOP DUROCHER: That's correct.

7 MR. ENGELMANN: And in fact that draft
8 document, is that what we see attached on the last three
9 pages of the tab?

10 BISHOP DUROCHER: That's right.

11 MR. ENGELMANN: Okay. And in your outline
12 you say that the proposed procedure is described as overly
13 focused on protection the interest of the insurers?

14 BISHOP DUROCHER: That was the comment of
15 the person who took the minutes at the meeting.

16 MR. ENGELMANN: Okay. So that's your
17 summary of what we see at paragraph 6?

18 BISHOP DUROCHER: That's right.

19 THE COMMISSIONER: Did you use the word
20 overly?

21 MR. ENGELMANN: I'm sorry?

22 THE COMMISSIONER: Did you use the word
23 overly?

24 MR. ENGELMANN: Yes, the outline says:
25 "The proposed procedure is described as

1 overly focused on protecting the
2 interest of the insurers."

3 **THE COMMISSIONER:** Well, I don't want to
4 mince words but I don't know that "avec comme but de
5 protéger les compagnies d'abord".

6 **BISHOP DUROCHER:** D'abord.

7 **THE COMMISSIONER:** Not overly, but the first
8 or primary function of the document was to protect.

9 **BISHOP DUROCHER:** Yes.

10 **THE COMMISSIONER:** You know, without getting
11 our ---

12 **MR. ENGELMANN:** Yes, I mentioned to the
13 Bishop that we didn't have translators here, we have
14 interpreters.

15 **THE COMMISSIONER:** Interpreters. Right.

16 **MR. ENGELMANN:** And therefore I know some
17 counsel have more limited French than others and so from
18 time to time there may be a need to explain something or
19 just read it in French and they can ---

20 **THE COMMISSIONER:** Or get the headphones so
21 that -- but in any event, you used the word overly and I
22 don't want that reflected.

23 **MR. ENGELMANN:** Okay.

24 **THE COMMISSIONER:** It wasn't overly. It was
25 primarily to protect the insurers.

1 **MR. ENGELMANN:** All right.

2 Okay. And again then, this procedure that
3 is set out in draft form, this was not adopted by the
4 Diocese of Alexandria-Cornwall?

5 **BISHOP DUROCHER:** Not that I'm aware of, no.

6 **MR. ENGELMANN:** All right.

7 Again, the suggestion appears to be -- and
8 I'm looking at the third page. We see this issue arising
9 again about retaining counsel for the Diocese or the
10 Committee of the Diocese and also retaining a separate
11 counsel for the alleged offender.

12 **BISHOP DUROCHER:** Yes.

13 **MR. ENGELMANN:** Now, after that, later in
14 1989, Bishop LaRocque writes to Cardinal Carter in Toronto
15 seeking information on, as I understand it, any policies
16 that they may have there dealing with child sexual abuse or
17 child abuse?

18 **BISHOP DUROCHER:** That's correct.

19 **MR. ENGELMANN:** And that's what we see at
20 Tab 10?

21 **BISHOP DUROCHER:** Yes.

22 **MR. ENGELMANN:** And sir, were you able to
23 find any response ---

24 **BISHOP DUROCHER:** No.

25 **MR. ENGELMANN:** --- to that letter?

1 **BISHOP DUROCHER:** No.

2 **MR. ENGELMANN:** So you don't know whether
3 anything was sent and lost or ---

4 **BISHOP DUROCHER:** I don't.

5 **MR. ENGELMANN:** --- whether there was any
6 reply?

7 **BISHOP DUROCHER:** I don't.

8 **MR. ENGELMANN:** All right.

9 Then, sir, we have some correspondence back
10 and forth between Gordon Winter and Bishop LaRocque, and as
11 I understand it, Gordon Winter was the chair of a special
12 commission of inquiry into sexual abuse of children by some
13 members of the clergy, and this inquiry was taking place in
14 Newfoundland.

15 **BISHOP DUROCHER:** That's correct.

16 **MR. ENGELMANN:** Is this the Cashel Inquiry
17 or is this another inquiry, do you know, sir?

18 **BISHOP DUROCHER:** The inquiry was set up by
19 the Archdiocese -- by Archbishop Penney, the Archdiocese of
20 St. John's. I'm not sure but I think it was more concerned
21 with the diocesan priests of the Diocese of St. John's.

22 **MR. ENGELMANN:** Okay. And as I understand
23 it, the chairman Mr. Winter, was asking dioceses from
24 across the country to provide policies or procedures they
25 might have in place ---

1 **BISHOP DUROCHER:** That's correct.

2 **MR. ENGELMANN:** --- to deal with responses
3 to allegations of child sexual abuse?

4 **BISHOP DUROCHER:** Yes.

5 **MR. ENGELMANN:** And in fact, Bishop LaRocque
6 responded and that's what we see at Tab 12?

7 **BISHOP DUROCHER:** That's right.

8 **MR. ENGELMANN:** And he sent along -- and it
9 says in his letter:

10 "Kindly find enclosed a draft copy of
11 such a document which was drawn-up a
12 few years ago and which is presently
13 under revision."

14 And the document we're looking at there
15 "Principles and Procedures for Clergy in Difficulty",
16 that's the first document that you could find with some
17 form of policy or procedure?

18 **BISHOP DUROCHER:** That's right. And his
19 expression "this is a draft document" explains my hesitance
20 when you asked me was this the procedure for the Diocese
21 and my response was that basically I'm not clear exactly
22 how this document was considered by Bishop LaRocque to be a
23 true policy as opposed to personal notes and directives for
24 himself. So in this he refers to it as a "draft policy".

25 **MR. ENGELMANN:** All right.

1 So it would appear that this draft policy
2 that we first saw back in '87 is still the only policy,
3 whether it's draft or otherwise ---

4 **BISHOP DUROCHER:** That's right.

5 **MR. ENGELMANN:** --- that we have in the fall
6 of 1989?

7 **BISHOP DUROCHER:** That's correct.

8 **MR. ENGELMANN:** All right.

9 And he's saying it's presently under
10 revision. Anything we'd have about that would be in this
11 Book of Documents in the reference?

12 **BISHOP DUROCHER:** That's correct.

13 **MR. ENGELMANN:** And there has certainly been
14 some discussion at meetings, and you've taken us through
15 those. All right.

16 Now -- and then there's just the letter back
17 from Mr. Winter thanking Bishop LaRocque.

18 If we could then turn to Tab 14, now we're -
19 - this is at around the same time, correct, November of
20 1989?

21 **BISHOP DUROCHER:** Yes.

22 **MR. ENGELMANN:** And again we're at the
23 Council of Priests and the reference to this issue is
24 paragraph 7 on page 2.

25 **BISHOP DUROCHER:** Yes.

1 **MR. ENGELMANN:** And what's being said here
2 is,

3 "The March '87 Document: The document
4 should..."

5 -- I presume that means should be --

6 "...used as a starting point and
7 distributed to the members of the
8 Council of priests."

9 Now, I'm not sure if you can help us here
10 because I know you weren't there at the time but are we
11 dealing with, if you're able to help, Principles and
12 Procedures for Clergy in Difficulty or are we dealing with
13 Frank Morrisey's document or do you know?

14 **BISHOP DUROCHER:** That's not clear to me.

15 **MR. ENGELMANN:** Okay. But in any event,
16 there has certainly been some discussion at the Council of
17 Priests on the issue?

18 **BISHOP DUROCHER:** Yes.

19 **MR. ENGELMANN:** Then the next minute, as I
20 understand it, or document that you have that relates to
21 the issue is another meeting of the Council of Priests that
22 takes place on May 29th, 1990 and that we find at Tab 15.
23 Is that correct?

24 **BISHOP DUROCHER:** Yes.

25 **MR. ENGELMANN:** And the discussion on this

1 issue in this document is that what we see at page 4 at
2 paragraph 15?

3 **BISHOP DUROCHER:** The question is?

4 **MR. ENGELMANN:** Sorry. The discussion
5 dealing with this issue, is that what we see at paragraph
6 15 on page 4?

7 **BISHOP DUROCHER:** Yes, yes.

8 **MR. ENGELMANN:** Now, sir, are you able to
9 help us here? I note it's "Bishops'" with the apostrophe
10 after the "s", and this may be surmising, but are we
11 dealing with what the CCCB has embarked in at this time?

12 **BISHOP DUROCHER:** I would expect so. Just
13 the previous fall, October of '89, was when the CCCB set up
14 its committee to study this issue.

15 **MR. ENGELMANN:** All right. So what they're
16 talking about here is likely what then becomes from Pain to
17 Hope, not one of these other documents that we looked at?

18 **BISHOP DUROCHER:** Exactly. Exactly.

19 **MR. ENGELMANN:** So it would have been well-
20 known to diocesan priests and presumably across the country
21 that some work was being done by the CCCB on this issue?

22 **BISHOP DUROCHER:** Absolutely.

23 **MR. ENGELMANN:** All right. Then the next
24 point we have is at Tab 16. You have another meeting of
25 the Council of Priests dated September 18th, 1990 and the

1 reference -- if I'm not mistaken, there are a couple of
2 references -- page 3, paragraph 9. There appears to be a
3 recognition on the part of the Council of Priests that the
4 time has come that the diocese should be setting up a
5 committee to deal with the issue of sexual abuse.

6 **BISHOP DUROCHER:** Yes.

7 **MR. ENGELMANN:** And they're referring to
8 Toronto. So perhaps something was received from Cardinal
9 Carter or not, but they seem to be referring to a setup
10 that existed in the Archdiocese of Toronto.

11 **BISHOP DUROCHER:** Yes.

12 **MR. ENGELMANN:** There's also a reference,
13 and I'm looking at the bottom of the page, sir, the Winter
14 Commission had come out presumably at this point making
15 recommendations to Bishops of Canada, and it's not
16 referenced there, but you're aware that there is work being
17 done on the issue, which culminates in from Pain to Hope.

18 **BISHOP DUROCHER:** That's right.

19 **MR. ENGELMANN:** Then the next issue that's
20 raised in the outline, sir, is a reference to a letter from
21 Richard Abell and I understand that he was the Executive
22 Director of the Children's Aid Society?

23 **BISHOP DUROCHER:** Correct.

24 **MR. ENGELMANN:** At that time?

25 **BISHOP DUROCHER:** Correct.

1 **MR. ENGELMANN:** And this is October 31st,
2 1990. He's writing to Bishop LaRocque.

3 **BISHOP DUROCHER:** Yes.

4 **MR. ENGELMANN:** And apparently the
5 Children's Aid Society had asked the Diocese and the Bishop
6 to have parish priests deliver a message about this issue
7 during their homilies?

8 **BISHOP DUROCHER:** Yes.

9 **MR. ENGELMANN:** Did I have that correct?

10 **BISHOP DUROCHER:** That's my understanding.

11 **MR. ENGELMANN:** All right. And do you know
12 what the impetus was for that? I realize you weren't here
13 but I ---

14 **BISHOP DUROCHER:** No, I wouldn't know.

15 **MR. ENGELMANN:** All right. Fair enough.

16 Then the next item you refer to in your
17 summary is again a meeting of the Council of Priests and we
18 have the minutes dated January 22nd, 1991, and again, we
19 have a reference to the Committee on Sexual Abuses at page
20 3, paragraph 7. Again, there seems to be a recognition
21 that it's time to set up a committee. I guess it hasn't
22 happened yet, but there's another recognition that the time
23 has come.

24 **BISHOP DUROCHER:** Yes.

25 **MR. ENGELMANN:** Do you know what is

1 envisioned by an Ombudsman and an initial investigation?

2 **BISHOP DUROCHER:** Well, again, referring to
3 Canon Law and to, for example, Father Morrissey's first
4 draft, the notion that the bishop when he's apprised of a
5 situation should be naming somebody to receive the
6 complaint and to go verify the complaint, so that would be
7 the whole idea of somebody to verify the accusation.
8 "Ombudsman", I would think, is just a term that was used
9 loosely there.

10 **MR. ENGELMANN:** And Gérald Poirier and D.B.
11 McDougald, were they parish priests or do you know?

12 **BISHOP DUROCHER:** Yes, senior priests within
13 the Diocese.

14 **MR. ENGELMANN:** But there's no reference
15 here to, at least at this stage, involving the Children's
16 Aid Society?

17 **BISHOP DUROCHER:** No.

18 **MR. ENGELMANN:** Now, next we have a letter
19 in French and this is from Marcel Lefebvre who is the
20 Secretary to the Canadian Conference of Catholic Bishops.

21 **BISHOP DUROCHER:** Yes.

22 **MR. ENGELMANN:** And in your outline you say
23 that this is the CCCB seeking input from Canadian Bishops -
24 --

25 **BISHOP DUROCHER:** Correct.

1 **MR. ENGELMANN:** --- on this issue. And
2 again, this was during the time when the CCCB was working
3 on from Pain to Hope.

4 **BISHOP DUROCHER:** Yes.

5 **MR. ENGELMANN:** I just wanted to ask you a
6 couple of questions about the document, and again, bearing
7 in mind the fact that c'est tout en français.

8 On the fourth page -- and I'm in Tab 19.

9 **THE COMMISSIONER:** Yes.

10 **MR. ENGELMANN:** It's actually page 2 at the
11 top, yes. Just if you could go down a little bit -- no,
12 it's page 2 at the top. If we just drop down a little bit?

13 **THE COMMISSIONER:** You're really going --
14 you want to go to which recommendation?

15 **MR. ENGELMANN:** It's paragraph 4 on page 2.

16 **THE COMMISSIONER:** "Un certain nombre",
17 okay.

18 **MR. ENGELMANN:** Oui. So what's being set
19 out here are some guiding principles for recommendations.

20 **BISHOP DUROCHER:** Yes.

21 **MR. ENGELMANN:** Is that a fair translation?

22 **BISHOP DUROCHER:** Yes.

23 **MR. ENGELMANN:** And what's being emphasized
24 is that, for instance, in the second bullet that it's
25 necessary to respect both Canon Law and Civil Law in these

1 cases and where the two systems might interrelate or
2 interconnect.

3 BISHOP DUROCHER: Correct.

4 MR. ENGELMANN: And as well, the fact that
5 we should prioritize the protection of children or
6 vulnerable or fragile adults.

7 BISHOP DUROCHER: Correct.

8 MR. ENGELMANN: Those were two of the
9 guiding principles.

10 BISHOP DUROCHER: That's right.

11 MR. ENGELMANN: All right. And there are
12 others set out. On page 3 at the bottom, the term
13 "l'évêque", that's bishop, correct?

14 BISHOP DUROCHER: That's right.

15 MR. ENGELMANN: Yes. So essentially the
16 bottom paragraph, the bishop or the bishop's representative
17 can be appointed to investigate and report if required in
18 cases of child sexual abuse?

19 BISHOP DUROCHER: Yes.

20 MR. ENGELMANN: And do you know -- when I
21 see references to "c." with numbers, that's a Canon Law
22 rule?

23 BISHOP DUROCHER: That's correct.

24 MR. ENGELMANN: But when it says "M #12", do
25 you have any idea what that is?

1 **BISHOP DUROCHER:** No, I'm not sure.

2 **MR. ENGELMANN:** All right.

3 Then on page 4, the seventh recommendation,
4 is this a recommendation that in effect says that protocol
5 should be established by every diocese to deal with issues
6 of this nature?

7 **BISHOP DUROCHER:** That's correct.

8 **MR. ENGELMANN:** And the thirteenth
9 recommendation, which is on page 6, I'm not sure I
10 understood this, and I'm not sure if I'd understand it in
11 English. This is something about proceeding with Canon Law
12 proceedings.

13 **BISHOP DUROCHER:** Yes.

14 **MR. ENGELMANN:** First ---

15 **THE COMMISSIONER:** Sorry. What number are
16 we looking at?

17 **MR. ENGELMANN:** I'm on "Treizième
18 recommandation", page 6.

19 **THE COMMISSIONER:** Okay.

20 **(SHORT PAUSE/COURTE PAUSE)**

21 **MR. ENGELMANN:** If you could just give me a
22 summary of what's being said? My understanding just
23 loosely was that there's a suggestion at least that one
24 should proceed with Canon Law proceedings first.

25 **BISHOP DUROCHER:** No.

1 **MR. ENGELMANN:** Or not.

2 **BISHOP DUROCHER:** What is being said here is
3 that if you are going to use canonical process, make sure
4 to respect the rights of the cleric that is involved. That
5 way the religious authorities will protect themselves
6 against any eventual recourse either before civil tribunals
7 or before the Holy See. Basically what this is referring
8 to is the recourse procedure that is -- that exists within
9 Canon Law that let's say a priest is assigned a certain
10 penalty within a procedure, there are appeals and often
11 these appeals -- I'm sorry, I shouldn't say that. One of
12 the avenues of appeal is that the accused' rights were not
13 protected.

14 **MR. ENGELMANN:** Right.

15 **BISHOP DUROCHER:** And so what is being said
16 here is make sure that you follow the accused, that you
17 respect the accused' rights in canonical procedures so that
18 you don't fail in appeal further down the line.

19 **MR. ENGELMANN:** Because a priest has appeal
20 processes through the Canon Law.

21 **BISHOP DUROCHER:** Any Catholic has an appeal
22 process in front of a penal decree, yes.

23 **MR. ENGELMANN:** Thank you. I was a bit
24 confused on that one and that's perhaps just my own
25 ignorance. All right.

1 Then you have -- you have references at Tabs
2 20, 21 and 22, and in fact, and 23 to setting up a
3 treatment centre and this is something referred to as "Le
4 centre de thérapie pour les enfants victimes d'agression
5 sexuelle".

6 **BISHOP DUROCHER:** Correct.

7 **MR. ENGELMANN:** And I guess in English it
8 was Sexual Abuse Treatment Centre or words to that effect?

9 **BISHOP DUROCHER:** The Child Sexual Abuse
10 Therapy Centre, which was the name that was first proposed.
11 Eventually it became the Children's Treatment Centre.

12 **MR. ENGELMANN:** We heard from one of the
13 witnesses this week from the school board that there were
14 great efforts in '91 and '92 to try and get this off the
15 ground and organizations pledged money.

16 **BISHOP DUROCHER:** Correct.

17 **MR. ENGELMANN:** Individuals, including a
18 fellow by the name of Gilles Métivier, went to the
19 provincial government to try and get them to match it and
20 it just never happened. So is this what's being talked
21 about here?

22 **BISHOP DUROCHER:** That's correct.

23 **MR. ENGELMANN:** So that was the unfortunate
24 failed effort in the early nineties but then it was
25 resurrected in '96 as the Children's Treatment Centre?

1 **BISHOP DUROCHER:** That's right.

2 **MR. ENGELMANN:** All right. I just wanted to
3 make sure we were dealing with the same thing.

4 So at the time, the Diocese had pledged some
5 money and some support ---

6 **BISHOP DUROCHER:** Yes.

7 **MR. ENGELMANN:** --- for this centre.

8 **BISHOP DUROCHER:** That's right.

9 **MR. ENGELMANN:** Then at Tab 24, we have I
10 guess the next minutes of the meeting of the Council of
11 Priests dealing with this issue.

12 **BISHOP DUROCHER:** Yes.

13 **MR. ENGELMANN:** And the reference, if I'm
14 not mistaken, is on page 3, paragraph 9.

15 **BISHOP DUROCHER:** Yes.

16 **MR. ENGELMANN:** I don't know if there's
17 anything you can add to what is said there with respect to
18 a discussion of this issue, but it appears there is some
19 discussion about if the priest involved is a pedophile,
20 whether or not that person can go back and work in the
21 parish.

22 **BISHOP DUROCHER:** The Jemez Springs
23 Treatment Centre was located in New Mexico, a centre that
24 specialized in the treatment, among other things, of
25 pedophilia.

1 **MR. ENGELMANN:** Yes.

2 **BISHOP DUROCHER:** I'm not sure where this
3 information is gathered, whether it was shared simply by
4 Bishop LaRocque to the members of the Presbyteral Council,
5 but from what I can see this is the information that is out
6 there and it's a recognition that if pedophilia is, in
7 fact, diagnosed, then that person cannot be readmitted to
8 ministry.

9 **MR. ENGELMANN:** So there would be
10 circumstances where it's being recognized that
11 rehabilitation of a priest just may not work?

12 **BISHOP DUROCHER:** That's right.

13 **MR. ENGELMANN:** All right.

14 And just to speak of that program, there was
15 a similar program at this time here in Ontario?

16 **BISHOP DUROCHER:** Yes.

17 **MR. ENGELMANN:** Known as South Down?

18 **BISHOP DUROCHER:** Yes.

19 **MR. ENGELMANN:** You are familiar with that
20 program?

21 **BISHOP DUROCHER:** Yes, I am.

22 **MR. ENGELMANN:** And likewise, other agencies
23 or programs in the United States, like St. Lukes?

24 **BISHOP DUROCHER:** Like St. Lukes in
25 Washington, correct.

1 **THE COMMISSIONER:** Is there not one in
2 Montreal as well?

3 **BISHOP DUROCHER:** There is no -- there are
4 two things in Montreal. In Montreal there was a centre for
5 integral development for priests and religious, which was
6 founded by Madame Jeannine Guindon, that had international
7 recognition.

8 **THE COMMISSIONER:** M'hm.

9 **BISHOP DUROCHER:** That was last for
10 pathological cases, more for people who just needed to come
11 to some kind of better balance and equilibrium in their own
12 lives.

13 There was also, if I'm not mistaken, a place
14 called le Centre Pinel. I'm less familiar with that
15 program. I'm under the impression that it was not of the
16 same -- how can I say -- there wasn't the degree of
17 services that can be found in a place like South Down or
18 like St. Lukes. The fact is that the clientele in the
19 French language world in North America is so much smaller
20 than in the English language world. I was speaking with a
21 director of South Down who was telling me that 38 per cent
22 of the people who come to South Down are Canadians, 60 per
23 cent are Americans, 10 per cent come from other places in
24 the world. A similar centre in French could only draw its
25 clientele from Quebec and French Ontario. Because of that

1 low number of possible clients, setting up a similar
2 program in French is unfortunately, very very difficult,
3 and presently there is nothing similar to South Down that
4 exists in French Canada.

5 **MR. ENGELMANN:** Sir, I wanted to then take
6 you to the last two pages of Tab 24 and just try to connect
7 the dots. We have a diocesan protocol that is set out
8 here, and I'm just looking at the top. It says:

9 "The seventh recommendation of the
10 report invites each diocesan bishop..."

11 And if turn back to Tab 19, is that the connection with
12 septième recommandation?

13 **BISHOP DUROCHER:** Yes, again, you are
14 looking at drafts of "From Pain to Hope" that were sent to
15 the bishops for retroaction before the final version of
16 "From Pain to Hope" was published and these pages come --
17 we will find them again in the final report of "From Pain
18 to Hope"

19 **MR. ENGELMANN:** All right.

20 **BISHOP DUROCHER:** So this is a draft version
21 of a few pages in "From Pain to Hope".

22 **MR. ENGELMANN:** All right.

23 So at least at or about this time there
24 would have been some discussion of this seventh
25 recommendation, and presumably this two-page document here

1 was prepared by the CCCB or someone on behalf of the CCCB?

2 **BISHOP DUROCHER:** It's a draft -- it's a
3 part of the draft of "From Pain to Hope".

4 **MR. ENGELMANN:** All right.

5 And the reason you have attached it here,
6 was it found together with these minutes?

7 **BISHOP DUROCHER:** That's correct.

8 **MR. ENGELMANN:** Because there's no real
9 reference to it ---

10 **BISHOP DUROCHER:** No, it was attached to the
11 minutes.

12 **MR. ENGELMANN:** Fair enough. I just note
13 there are some references to the various child protection
14 laws in the provinces that are set out?

15 **BISHOP DUROCHER:** That's correct.

16 **MR. ENGELMANN:** Okay. Now, in your outline,
17 you then talk about the document that we see at Tab 25, and
18 this appears to be either a protocol or a draft protocol of
19 the Diocese of Alexandria-Cornwall, entitled, "Diocesan
20 Guidelines on Sexual Abuse by Priests, Deacons, Seminaries
21 and Pastoral Assistants"?

22 **BISHOP DUROCHER:** Yes.

23 **MR. ENGELMANN:** Do you know -- it's not
24 dated?

25 **BISHOP DUROCHER:** No.

1 **MR. ENGELMANN:** In your outline, you refer
2 to the date May 19,'92. I don't know if that is just the
3 date from the last minutes or not. Yes, it is.

4 **BISHOP DUROCHER:** Yes.

5 **MR. ENGELMANN:** Are you able to help us with
6 the date of this document?

7 **BISHOP DUROCHER:** No, the only thing we know
8 is that it was published publicly in ---

9 **MR. ENGELMANN:** I think we will come to
10 that.

11 **BISHOP DUROCHER:** Yes.

12 **MR. ENGELMANN:** In 1994?

13 **BISHOP DUROCHER:** Yes. That's right.

14 **MR. ENGELMANN:** Yes. Okay. So ---

15 **BISHOP DUROCHER:** Sometime before 1994 this
16 was the policy.

17 **MR. ENGELMANN:** And because of what we'll
18 see later, we know that this in fact became the policy as
19 opposed to just a draft?

20 **BISHOP DUROCHER:** That's correct.

21 **MR. ENGELMANN:** All right.

22 So in it we see, for example, references we
23 haven't seen before, for example, a specific reference to
24 the Children's Aid Society?

25 **BISHOP DUROCHER:** M'hm.

1 **MR. ENGELMANN:** And contacting the
2 Children's Aid Society if the offence involves a minor?

3 **BISHOP DUROCHER:** Yes.

4 **MR. ENGELMANN:** And, sir, I know you were
5 able to find this document. Do you know who prepared it?

6 **BISHOP DUROCHER:** We believe it was prepared
7 by Father Denis Vaillancourt, who is the chancellor of the
8 Diocese.

9 **MR. ENGELMANN:** Okay. And that belief is
10 based on ---

11 **BISHOP DUROCHER:** The minutes of one of the
12 Priests' Council minutes where they speak about asking
13 Father Denis to work on preparing the draft.

14 **MR. ENGELMANN:** All right.

15 So this particular policy then either later
16 in '92, '93 or early '94 is adopted by the Diocese of
17 Alexandria-Cornwall for dealing with allegations of this
18 nature?

19 **BISHOP DUROCHER:** That's correct.

20 **MR. ENGELMANN:** All right.

21 And we simply -- we have it in English and
22 in French at the tab.

23 **BISHOP DUROCHER:** M'hm.

24 **MR. ENGELMANN:** Okay.

25 Now, in Volume 2 at the first tab, we then

1 have the document, "From Pain to Hope" and this is the
2 report from the Ad Hoc Committee on Child Sexual Abuse of
3 the Canadian Conference of Catholic Bishops. And, sir, it
4 was released in the summer of 1992; correct?

5 **BISHOP DUROCHER:** I'm sorry, I'm just
6 finding my place here.

7 **MR. ENGELMANN:** At Tab 26, it's the first
8 tab in Volume 2?

9 **BISHOP DUROCHER:** Yes.

10 **MR. ENGELMANN:** And this was, I think, what
11 you described as an influential report?

12 **BISHOP DUROCHER:** Yes.

13 **MR. ENGELMANN:** Is that fair?

14 **BISHOP DUROCHER:** Yes.

15 **MR. ENGELMANN:** All right.

16 And I just want to take you to a couple of
17 spots in it, if I may. The mandate of the committee, that
18 is what we see set out at pages 13 and 14?

19 **BISHOP DUROCHER:** Yes.

20 **MR. ENGELMANN:** And included amongst them,
21 and I'm just looking at page 14:

22 "...completion expansion of the 1987
23 suggested guidelines in the light of
24 their use in dioceses, other recent
25 experiences..."

1 Would that be -- when they refer back to '87
2 suggested guidelines, is that a reference back to Reverend
3 Morrisey's work?

4 **BISHOP DUROCHER:** That would be correct,
5 yes.

6 **MR. ENGELMANN:** All right.

7 Then, sir, the recommendations that are set
8 out are found at pages 43 and 44, and I think you have made
9 the point earlier, some of those guiding principles in
10 paragraph 4 are what we would have seen earlier at Tab 19?

11 **BISHOP DUROCHER:** Yes, yes, I'm sorry.

12 **MR. ENGELMANN:** As guiding principles?

13 **BISHOP DUROCHER:** That's right.

14 **MR. ENGELMANN:** And I'm noticing -- one of
15 the recommendations -- I'm looking at paragraph 49 -- was
16 to identify in each diocese experts from many disciplines
17 involved in the serious studies -- study of issues
18 connected with sexual abuse?

19 **BISHOP DUROCHER:** You said paragraph 49?

20 **MR. ENGELMANN:** Page 49, paragraph 17.

21 **BISHOP DUROCHER:** Paragraph 17, yes.

22 **MR. ENGELMANN:** That was one of the
23 recommendations to dioceses from this report?

24 **BISHOP DUROCHER:** Yes, to set up a
25 committee?

1 MR. ENGELMANN: Yes, and to identify experts

2 ---

3 BISHOP DUROCHER: Yes.

4 MR. ENGELMANN: --- from various
5 disciplines?

6 BISHOP DUROCHER: Yes.

7 MR. ENGELMANN: And then there are some
8 recommendations which appear to be directed to bishops, and
9 correct me if I am wrong, but they start at page 58 and run
10 through page 60?

11 BISHOP DUROCHER: Yes.

12 MR. ENGELMANN: All right.

13 And for example, one of them is to make sure
14 that an accused priest is informed about the availability
15 and possibility of supportive treatment or counselling?

16 BISHOP DUROCHER: Yes.

17 MR. ENGELMANN: And also to place a priest
18 accused of child sexual abuse on administrative leave with
19 pay?

20 BISHOP DUROCHER: Yes.

21 MR. ENGELMANN: And, sir, to your knowledge,
22 were those two recommendations followed up on here in the
23 Diocese of Alexandria-Cornwall?

24 BISHOP DUROCHER: The first one being ---

25 MR. ENGELMANN: Making sure that an accused

1 priest is informed about the availability and possibility
2 of supportive treatment or counselling during a judicial
3 process?

4 **BISHOP DUROCHER:** As far as I know, that was
5 followed up on, yes.

6 **MR. ENGELMANN:** And placing a priest accused
7 of child sexual abuse on administrative leave with pay?

8 **BISHOP DUROCHER:** This was followed up on, I
9 believe, in all cases except one.

10 **MR. ENGELMANN:** And there are a number of
11 appendices including, at page 81 through 84, an appendix
12 dealing with this issue that we had some dialogue on,
13 privilege and confidentiality?

14 **BISHOP DUROCHER:** Yes.

15 **MR. ENGELMANN:** And it talks about, as I see
16 it at page 82, the fact that the paper will deal only with
17 child protection legislation in effect in Ontario? I'm
18 looking at para 9.

19 **BISHOP DUROCHER:** Pardon me; what's your
20 question?

21 **MR. ENGELMANN:** It appears that they are
22 only looking at child protection legislation in effect in
23 Ontario, for the purposes of the appendix?

24 **BISHOP DUROCHER:** Yes. The various
25 committees, subcommittees worked on -- these appendices

1 were prepared by various subcommittees.

2 MR. ENGELMANN: Okay.

3 BISHOP DUROCHER: So this subcommittee, when
4 it was preparing this paper, was only looking at the issue
5 in Ontario.

6 MR. ENGELMANN: All right.

7 Now, other policies, procedures that you
8 have described in your outline include a meeting, and this
9 is with Father J.A. Loftus, who gives a presentation to
10 priests of the Diocese of Alexandria-Cornwall?

11 BISHOP DUROCHER: That's correct.

12 MR. ENGELMANN: A one-day session on October
13 27, 1992?

14 BISHOP DUROCHER: Yes.

15 MR. ENGELMANN: And you were able to discern
16 that by documents that are found at Tab 27?

17 BISHOP DUROCHER: Yes.

18 MR. ENGELMANN: And that's an address about
19 consideration of sexuality and sexual misconduct among
20 priests?

21 BISHOP DUROCHER: That's correct.

22 MR. ENGELMANN: And do you know if this is,
23 and I hate to use the term, but it's a term that's been
24 used here, sort of in-service training?

25 BISHOP DUROCHER: Yes, that's what I would

1 call it, in-service training.

2 MR. ENGELMANN: Okay.

3 BISHOP DUROCHER: Yes.

4 MR. ENGELMANN: And is that something that
5 is required for diocesan priests on an annual basis?

6 BISHOP DUROCHER: No, it's not required.
7 It's something that a diocese typically will try to do on a
8 regular basis according to the needs that -- either the
9 bishop or often there's a -- the Priests Council
10 themselves, they'll say, "We need some formation on this
11 area or that area; let's get a speaker in to come and work
12 with us on this." So it's not mandated in any way but it
13 is part of a diocese's life.

14 MR. ENGELMANN: All right.

15 So when you bring speakers in to deal with
16 certain areas and to provide certain forms of training, I
17 assume the priests are encouraged to attend?

18 BISHOP DUROCHER: That's correct. Yes. And
19 I would just like to point out that we only have the notes
20 from Father Loftus' presentation ---

21 MR. ENGELMANN: Yes.

22 BISHOP DUROCHER: --- but there were other
23 in-service training days on similar -- on this issue with
24 other resource people throughout the early '90's.

25 MR. ENGELMANN: On this issue?

1 **BISHOP DUROCHER:** Yes.

2 **MR. ENGELMANN:** Okay.

3 **BISHOP DUROCHER:** Madame Guidon, for
4 example, I know. I was told -- I was asking the priests
5 and they told me that Madame Guindon from Montreal, that I
6 was speaking about, came and gave a day on psychosexual
7 integration to the priests. The year that I arrived here
8 we had a workshop on the psychology of human maturity
9 including psychosexual maturity with the priests.

10 **MR. ENGELMANN:** Okay. Were you able to find
11 some of those other addresses from the early '90s?

12 **BISHOP DUROCHER:** No, I wasn't.

13 **MR. ENGELMANN:** Okay. So you just know that
14 there was training because you've spoken to some of your
15 peers?

16 **BISHOP DUROCHER:** That's right.

17 **MR. ENGELMANN:** Sir, then you've referred, I
18 think, to the fact that at some point you know that this
19 policy becomes the policy because of a press release or
20 media release, and is that what we see then at Tab 28?

21 **BISHOP DUROCHER:** That's correct.

22 **MR. ENGELMANN:** Do you know what the impetus
23 was for Bishop LaRocque issuing a press release in January
24 of 1994?

25 **BISHOP DUROCHER:** Yes, it was the -- I guess

1 the whole -- I don't know how you could call it, but
2 anyway, the whole flurry around the allegations revolving
3 around Father Charles MacDonald.

4 **MR. ENGELMANN:** Okay. And so the -- I
5 presume it's not common that a bishop would issue a media
6 release?

7 **BISHOP DUROCHER:** No.

8 **MR. ENGELMANN:** But as part of the media
9 release, that's where we find out for sure that we have
10 this policy ---

11 **BISHOP DUROCHER:** Exactly.

12 **MR. ENGELMANN:** --- dealing with guidelines
13 on sexual abuse?

14 **BISHOP DUROCHER:** Yes.

15 **MR. ENGELMANN:** All right.

16 Now, then we have some correspondence
17 between Bishop LaRocque and Richard Abell from the
18 Children's Aid Society.

19 **BISHOP DUROCHER:** Yes.

20 **MR. ENGELMANN:** And that's in '94 and early
21 '95?

22 **BISHOP DUROCHER:** Yes.

23 **MR. ENGELMANN:** We then have a document at
24 Tab 31 and it's described in your outline as "Guidelines
25 drawn up by the Diocese in consultation with the CAS,

1 Cornwall Police and the OPP" and you say they were approved
2 by the Bishop on June 21st, 1995, entitled "Diocesan
3 Guidelines on Sexual Abuse by Priests, Deacons, Seminaries
4 and Pastoral Assistants". So we have a similar title to
5 the document we just looked at, but we have a much shorter
6 form document.

7 **BISHOP DUROCHER:** Yes.

8 **MR. ENGELMANN:** Does this document -- is the
9 other document subsumed in this document or does that other
10 policy continue, or do you know?

11 **BISHOP DUROCHER:** I believe this document
12 here replaces the previous one. This becomes the policy of
13 the Diocese in 1995.

14 **MR. ENGELMANN:** All right.

15 **BISHOP DUROCHER:** That's my understanding.

16 **MR. ENGELMANN:** All right.

17 And your understanding of the fact that
18 there were -- that this was drawn up in consultation with
19 Children's Aid Society and the police, does that come from
20 records or is that from oral communications?

21 **BISHOP DUROCHER:** At the bottom of the page

22 ---

23 **MR. ENGELMANN:** Or it's just this ---

24 **BISHOP DUROCHER:** "Many of these
25 guidelines have been drawn up in

1 consultation with CAS of Cornwall and
2 both the OPP and Cornwall Police."

3 **MR. ENGELMANN:** All right.

4 And do you know who it was from the Diocese
5 that would have been involved in these meetings with the
6 other institutions?

7 **BISHOP DUROCHER:** I wouldn't know, no.

8 **MR. ENGELMANN:** All right.

9 And you wouldn't know how many meetings or
10 when they took place?

11 **BISHOP DUROCHER:** No, though there is one
12 letter there indicating a time of a meeting.

13 **MR. ENGELMANN:** Yes, the letter just before?

14 **BISHOP DUROCHER:** That's right.

15 **MR. ENGELMANN:** Okay. All right.

16 Then we have at Tab 32 ---

17 **BISHOP DUROCHER:** If I may add one more
18 thing?

19 **MR. ENGELMANN:** Yes.

20 **BISHOP DUROCHER:** In that letter it
21 indicates:

22 "This notice will confirm arrangements
23 for a meeting of police, CAS and
24 churches."

25 So I don't know if there were other

1 denominations involved in that.

2 **MR. ENGELMANN:** So there may well have been
3 other churches other than the Roman Catholic Church?

4 **BISHOP DUROCHER:** The expression would seem
5 to indicate that, yes.

6 **MR. ENGELMANN:** Now, at Tab 32, can you tell
7 us -- and I'm just looking at the cover page -- it says
8 "Diocesan Policies". Is there a booklet or a pamphlet,
9 manual that has all of the diocesan policies in it?

10 **BISHOP DUROCHER:** That's correct. Over the
11 past few years Bishop LaRocque would have every year
12 published a compendium of the diocesan policies, or at
13 least as new ones were redacted, and so it was basically
14 that, a compendium. If you look on the second page, you'll
15 see the Table of Contents of that compendium.

16 **MR. ENGELMANN:** So would this be like a
17 binder, a loose leaf, where you would pull them out if they
18 were changed or ---

19 **BISHOP DUROCHER:** Bound in spiral.

20 **MR. ENGELMANN:** Bound in spiral?

21 **BISHOP DUROCHER:** Yes.

22 **MR. ENGELMANN:** Okay. So if you wanted to
23 get a snapshot of diocesan policies for a particular year,
24 if your archivist has kept them, you would have a book for
25 '95, a book for '96, et cetera?

1 **BISHOP DUROCHER:** Exactly. Exactly.

2 **MR. ENGELMANN:** So what we're looking at
3 then is we have the one-page document that you say was
4 signed and approved in '95?

5 **BISHOP DUROCHER:** That's correct.

6 **MR. ENGELMANN:** And it seems to have been
7 signed again in '96?

8 **BISHOP DUROCHER:** Yes.

9 **MR. ENGELMANN:** It seems to be identical?

10 **BISHOP DUROCHER:** Yes.

11 **MR. ENGELMANN:** And then we have something
12 else called a protocol for priests who are the subject
13 matter of criminal proceedings or civil litigations?

14 **BISHOP DUROCHER:** Yes.

15 **MR. ENGELMANN:** Now, is that part of the
16 policy or is that a separate policy, or do you know?

17 **BISHOP DUROCHER:** It's a separate document.
18 From my understanding, speaking with the priests, they were
19 concerned that the new guidelines that were drawn up with
20 the advice of the Children's Aid Society and the police
21 forces didn't address issues concerning the priests
22 themselves, and so they requested that some kind of
23 guidelines were given for how to deal with priests. So
24 it's a separate document but attached, you could say.

25 **MR. ENGELMANN:** Okay. Because I'm just

1 looking at your Table of Contents and it seems to form part
2 of Appendix "C".

3 BISHOP DUROCHER: Yes.

4 MR. ENGELMANN: So we have pages 37 through
5 39.

6 BISHOP DUROCHER: Yes.

7 MR. ENGELMANN: All right.

8 So do you know who prepared this document,
9 "Protocol for Priests who are the Subject Matter of
10 Criminal Proceedings or Civil Litigation"?

11 BISHOP DUROCHER: No, I don't.

12 MR. ENGELMANN: All right.

13 It's dated June 17th, '96, so it's quite a
14 bit earlier. Sorry, no, it's not. It's the very same
15 time.

16 BISHOP DUROCHER: That's right.

17 MR. ENGELMANN: Yes. Okay.

18 And in it, for example, it says that an
19 accused priest has the right to seek legal counsel and that
20 the costs for legal counsel will be paid by the Diocese?

21 BISHOP DUROCHER: Yes.

22 MR. ENGELMANN: Do you know if that's still
23 the policy of the Diocese?

24 BISHOP DUROCHER: Yes, it is.

25 MR. ENGELMANN: We have the reference to, at

1 para 3, the fact that if there's an allegation of an
2 indictable offence, the accused priest will be removed from
3 his position, placed on a leave of absence.

4 BISHOP DUROCHER: Yes.

5 MR. ENGELMANN: Is that still the policy or
6 procedure of the Diocese?

7 BISHOP DUROCHER: Yes.

8 MR. ENGELMANN: And there's a reference
9 later on:

10 "All statements pertaining to
11 accusations, criminal charges or civil
12 lawsuits should be made by legal
13 counsel to avoid all misunderstanding."

14 Do you know if that is still a policy or
15 procedure of the Diocese?

16 BISHOP DUROCHER: No.

17 MR. ENGELMANN: It's not, or you don't ---

18 BISHOP DUROCHER: No, no, what I mean is
19 that our new policy that we developed has put into place a
20 diocesan spokesperson for dealing with media issues around
21 these allegations.

22 MR. ENGELMANN: And this would have been the
23 policy that was developed under your tenure?

24 BISHOP DUROCHER: That's correct.

25 MR. ENGELMANN: Now, you start as the Bishop

1 of this Diocese, if my memory serves me, in the spring of
2 2002?

3 BISHOP DUROCHER: Beginning of the summer.

4 MR. ENGELMANN: Okay. And, therefore, one
5 of the first things you would have done is set up an ad hoc
6 committee?

7 BISHOP DUROCHER: Yes.

8 MR. ENGELMANN: And I'm looking at Tab 33.

9 BISHOP DUROCHER: Yes.

10 MR. ENGELMANN: And can you tell us just
11 very briefly what your purpose was at that time in setting
12 up an ad hoc committee on safeguarding against abuse?

13 BISHOP DUROCHER: Well, I think the
14 committee's aim is clearly set in the second paragraph:

15 "Its general goal is to advise the
16 Bishop on formulating and implementing
17 diocesan policy which will help
18 safeguard children and other vulnerable
19 parishioners against possible sexual
20 abuse."

21 Obviously when I arrived in this Diocese
22 this was a huge issue and I felt I could not deal with it
23 by myself, and so the best way to move forward after having
24 consulted with both the Priest Council and certain
25 specialists was to set up a representative committee to

1 study these issues.

2 MR. ENGELMANN: So when you arrived, the
3 policy that was in place was the policy that we looked at
4 from '96?

5 BISHOP DUROCHER: Correct.

6 MR. ENGELMANN: There was no Committee on
7 Child Sexual Abuse ---

8 BISHOP DUROCHER: No.

9 MR. ENGELMANN: --- or anything of that
10 nature?

11 BISHOP DUROCHER: No.

12 MR. ENGELMANN: And you determined that you
13 wanted to address this issue?

14 BISHOP DUROCHER: That's correct.

15 MR. ENGELMANN: All right.

16 What do we see at Tab 34 then, Bishop
17 Durocher?

18 BISHOP DUROCHER: At Tab 34 you see the
19 media release announcing the first meeting of this diocesan
20 committee.

21 MR. ENGELMANN: And then at Tab 35 we have a
22 reference to -- this is a memo to members of the committee?

23 BISHOP DUROCHER: That's correct, from Mr.
24 Ronald Bisson. I hired Mr. Bisson as facilitator for this
25 process.

1 **MR. ENGELMANN:** And can you tell us who he
2 was and why you hired him?

3 **BISHOP DUROCHER:** He's a professional
4 facilitator from the Ottawa area. I had had an occasion to
5 participate in a process with a professional association, a
6 provincial professional association. I found he was
7 excellent and I approached him to lead us through this
8 process.

9 **MR. ENGELMANN:** And in his memo he says that
10 there was a meeting between yourself and Father MacNeil and
11 obviously Mr. Bisson, were you a subcommittee of this ad
12 hoc committee or ---

13 **BISHOP DUROCHER:** No, this was before we
14 started. Father Everett MacNeil is a priest of the Diocese
15 of Antigonish, who at the time was the Bishop's delegate
16 for the Archdiocese of Ottawa. When I inquired as to whom
17 I could approach, the first thing I wanted to do was to
18 name a delegate for myself because I was concerned that
19 upon my arrival I might be -- I might be deluged by
20 complaints, you know, as the new Bishop arriving, so I
21 wanted to have a competent delegate to deal with this, and
22 I realized there was nobody in the Diocese who had that
23 kind of training or experience. So I approached Father
24 MacNeil. Father MacNeil had also worked on the Winter
25 Commission ---

1 **MR. ENGELMANN:** Yes.

2 **BISHOP DUROCHER:** --- as a member of the
3 Winter Commission in Newfoundland. He had also been hired
4 by the American bishops in the early '90s to study the
5 whole issue of sexual abuse in the American dioceses and
6 had produced an important report for them. He is an
7 ethicist and a canon lawyer. So he was truly -- how can I
8 say -- the person who helped me at that point determine how
9 we would move forward.

10 So when I approached Mr. Bisson to
11 facilitate the process, he and Father MacNeil and I got
12 together to clarify exactly where we would be going with
13 this process. So this was kind of a planning meeting for
14 the working of the Committee.

15 **MR. ENGELMANN:** Just so I understand, were
16 you then a member of the Committee or was Father MacNeil
17 there for you?

18 **BISHOP DUROCHER:** Father MacNeil was named
19 as a member of the Committee, as a resource person to the
20 Committee. I was not named as a member of the Committee.
21 It was a committee to advise me.

22 **MR. ENGELMANN:** Fair enough.

23 **BISHOP DUROCHER:** But I attended all the
24 meetings of the Committee to be informed.

25 **MR. ENGELMANN:** And if we want to know a

1 little bit more about Father MacNeil's background and
2 qualifications, at Tab 36 we have a résumé of his
3 background?

4 **BISHOP DUROCHER:** That's right.

5 **MR. ENGELMANN:** And it mentions, for
6 example, that Archdiocese of Ottawa delegate on matters of
7 sexual misconduct and abuse near the bottom?

8 **BISHOP DUROCHER:** Yes.

9 **MR. ENGELMANN:** And you've talked about his
10 experience on the Winter Commission, which is also set up?

11 **BISHOP DUROCHER:** That's correct.

12 **MR. ENGELMANN:** And the coordinator for the
13 American Bishops' Ad Hoc Commission on Sexual Abuse.

14 **BISHOP DUROCHER:** That's right.

15 **MR. ENGELMANN:** All right.

16 So he had had a fair bit of experience in
17 this subject matter?

18 **BISHOP DUROCHER:** Yes, he had.

19 **MR. ENGELMANN:** Now, then you have -- at the
20 next few tabs we have references and minutes of meetings of
21 this Committee?

22 **BISHOP DUROCHER:** That's correct.

23 **MR. ENGELMANN:** For example, at Tab 37 we
24 have listed -- and this is the second meeting of the
25 Committee?

1 **BISHOP DUROCHER:** That's right.

2 **MR. ENGELMANN:** And can you just tell us who
3 the participants are? Their names are there, but can you
4 tell us what the backgrounds are?

5 **BISHOP DUROCHER:** Yes. Francis Lafave was
6 administrator at the time of the Glen-Stor-Dun Lodge, which
7 is one of the major seniors' homes here in Cornwall. We
8 were concerned with dealing with abuse not only of children
9 but of vulnerable adults.

10 Lucie Levesque is a schoolteacher. She's
11 also a mother involved in one of the parishes.

12 Chris MacDonell is a committed participant
13 in one of the parishes out in the countryside. He's also a
14 retired police officer.

15 Reverend MacNeil. Kelvin Maloney is the
16 Vicar General of our Diocese. Ron McLellan is a local
17 lawyer. Johneen Rennie was the administrator at one point
18 of a local seniors' home. But I particularly asked Mrs.
19 Rennie to be part of this Commission because I wanted to
20 have someone from outside of the Roman Catholic community
21 and she is a Presbyterian.

22 Gerald Samson was a former superintendent of
23 education, I believe, for the public board here and well-
24 known in the community. Judy Schaeffer is a family mother
25 active in one of the parishes.

1 **MR. ENGELMANN:** I note that the facilitator
2 is mentioned. You mentioned Ronald Bisson.

3 **BISHOP DUROCHER:** Yes.

4 **MR. ENGELMANN:** And Richard Abell is absent.
5 He was a member of this committee as well?

6 **BISHOP DUROCHER:** That's correct. Richard
7 Abell was a member of the committee and originally we had -
8 - I'm sorry, his name escapes me, but the director of the
9 Children's Treatment Centre, but his responsibility is just
10 -- his work was -- he didn't have time to be part of it but
11 he continued to consult with us.

12 **MR. ENGELMANN:** All right.

13 And then just very briefly, looking at this
14 document, you've got agenda items for the various meetings
15 set out?

16 **BISHOP DUROCHER:** Yes.

17 **MR. ENGELMANN:** For example, a meeting to
18 September 16th was the study of the existing diocesan
19 guidelines, strengths, shortcomings, et cetera?

20 **BISHOP DUROCHER:** Yes.

21 **MR. ENGELMANN:** And I guess at this
22 particular meeting -- and I'm looking at page 3 -- you
23 would have had a discussion as a committee about "From Pain
24 to Hope"?

25 **BISHOP DUROCHER:** That's right.

1 MR. ENGELMANN: And then to carry on, at Tab
2 38 you have a report of the third meeting.

3 BISHOP DUROCHER: Yes.

4 MR. ENGELMANN: And these would be minutes
5 of the meeting?

6 BISHOP DUROCHER: That's right.

7 MR. ENGELMANN: And we have Father MacNeil
8 presenting some documentation to you?

9 BISHOP DUROCHER: Yes.

10 MR. ENGELMANN: Then we have in chart form
11 some of the strengths and weaknesses of the current policy
12 ---

13 BISHOP DUROCHER: That's right.

14 MR. ENGELMANN: --- with suggestions for
15 ways to improve?

16 BISHOP DUROCHER: That's right.

17 MR. ENGELMANN: And what is the document
18 that we see on the last few pages of this tab? Actually we
19 have a couple. Were these some of the documents that
20 Father MacNeil would have presented?

21 BISHOP DUROCHER: Exactly.

22 MR. ENGELMANN: Is that fair?

23 BISHOP DUROCHER: Exactly.

24 MR. ENGELMANN: All right.

25 So a protocol regarding situations of child

1 sexual abuse from the Archdiocese of Ottawa, and then as
2 well something from the Diocese of Antigonish?

3 BISHOP DUROCHER: That's right.

4 MR. ENGELMANN: So those were examples of
5 protocols that you would have looked at ---

6 BISHOP DUROCHER: Yes.

7 MR. ENGELMANN: --- for consideration?

8 BISHOP DUROCHER: Yes.

9 MR. ENGELMANN: Then at Tab 39 you have --
10 is this an article or advertisement in the Standard
11 Freeholder?

12 BISHOP DUROCHER: That's right. We decided
13 we wanted to open the process to the general public so that
14 people would be free to send their input. So both in the
15 Standard Freeholder and in the Journal de Cornwall we
16 published the protocol as it existed, the diocesan
17 guidelines on sexual abuse, as well as the protocol for
18 priests and asking for retroaction feedback.

19 MR. ENGELMANN: And can you give us some
20 sense as to whether you were successful in obtaining
21 responses?

22 BISHOP DUROCHER: Yes. There were a number
23 of parish councils that responded. A few individuals sent
24 us letters and I met with some groups, the Citizens for
25 Renewal, the Coalition for Action on Child Abuse in

1 Cornwall, the Sexual Assault Support Services for Women and
2 the Response Team for Women here in Cornwall, as well as a
3 group of young priests who responded as a group.

4 **MR. ENGELMANN:** I'm not sure about -- I was
5 hoping to be done. I'm not going to be that much longer
6 but I'm not sure if this is an appropriate time.

7 **THE COMMISSIONER:** Let's take lunch.
8 You'll be how long, an hour or so?

9 **MR. ENGELMANN:** No, no. Half an hour.

10 **THE COMMISSIONER:** And have you canvassed
11 the others to see about time?

12 **MR. ENGELMANN:** I did yesterday. Some of
13 them were reluctant to commit. Perhaps we should take a
14 shorter lunch break than normal, if that's all right with
15 counsel.

16 **THE COMMISSIONER:** So 1:30?

17 **MR. ENGELMANN:** Sure.

18 **THE COMMISSIONER:** And give everyone enough
19 time. All right. So 1:30 we'll come back.

20 **THE REGISTRAR:** Order; all rise. À l'ordre;
21 veuillez vous lever.

22 The hearing will reconvene at 1:30.

23 --- Upon recessing at 12:38 p.m./

24 L'audience est suspendue à 12h38

25 --- Upon resuming at 1:39 p.m./

1 L'audience est reprise à 13h39

2 **THE REGISTRAR:** This hearing of the Cornwall
3 Public Inquiry is now in session. Please be seated.
4 Veuillez vous asseoir.

5 **THE COMMISSIONER:** Thank you.
6 Good afternoon.

7 **BISHOP DUROCHER, Resumed/Sous le même serment:**

8 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
9 **ENGELMANN, (cont'd/suite):**

10 **MR. ENGELMANN:** Good afternoon, Mr.
11 Commissioner.

12 Good afternoon, Bishop Durocher.

13 **BISHOP DUROCHER:** Good afternoon.

14 **MR. ENGELMANN:** Sir, I want to retrace just
15 very briefly because we sort of skipped through the minutes
16 of your meetings, and I just want to go back, if we can, to
17 the second meeting of your ad hoc committee on safeguarding
18 against abuse.

19 And just to put this into context, you have
20 your statement in or about August of 2002 and you talk
21 about the fact you're going to put this committee together;
22 you're going to meet through the fall and you're going to
23 come up with a new protocol by the Christmas -- by the end
24 of the year.

25 **BISHOP DUROCHER:** They would issue the

1 report by Christmas.

2 MR. ENGELMANN: Right.

3 BISHOP DUROCHER: And from that report we
4 would develop a new protocol.

5 MR. ENGELMANN: Right. And with that report
6 to go out to the various parishes, get feedback from ---

7 BISHOP DUROCHER: That's correct.

8 MR. ENGELMANN: --- parishioners and your
9 priests, et cetera.

10 BISHOP DUROCHER: Yes, exactly.

11 MR. ENGELMANN: And in fact then we have the
12 protocol signed off in the spring, I think, of 2003 to be
13 effective in the summer of 2003?

14 BISHOP DUROCHER: That's right.

15 MR. ENGELMANN: All right.

16 So just going back to Tab 37 for a minute,
17 on the second page "Reflection on our history", you have a
18 number of comments being made here about,

19 "the Church is shaken; silence
20 contributed to the problem; people
21 question the justice system processes;
22 no closure occurred; giving money to
23 victims is not a good course of action;
24 innocent priests have lived the sense
25 of betrayal..."

1 et cetera.

2 This is a summary, if I'm not mistaken, of
3 the discussion amongst the panel members?

4 **BISHOP DUROCHER:** It's a collection of
5 opinions of the panel members, yes.

6 **MR. ENGELMANN:** All right.

7 This isn't coming from anywhere else; this
8 is coming from the panel members?

9 **BISHOP DUROCHER:** From the panel members,
10 that's right.

11 **MR. ENGELMANN:** All right.

12 And then on page 3 it says:

13 "Some questions are raised about the
14 mandate of the committee: are we
15 responding to media pressure trying to
16 fix something that isn't there anymore;
17 are we establishing procedures from a
18 due diligence perspective; what about
19 priests and confession;"

20 et cetera.

21 Again, are these, again, questions that are
22 being raised by these various individuals?

23 **BISHOP DUROCHER:** By the committee members,
24 that's correct.

25 **MR. ENGELMANN:** All right.

1 So this is a free flowing discussion that is
2 being facilitated?

3 **BISHOP DUROCHER:** That's right.

4 **MR. ENGELMANN:** And I noticed under the
5 brief discussion on "From Pain to Hope" the last two
6 bullets there:

7 "if doubts persist in the public's mind
8 when a priest is acquitted what do we
9 do; if the criminal justice system does
10 not resolve issues because of legal
11 technicalities, can the Church pursue
12 the investigation through Canon Law;
13 the response is that the church would
14 be leery of undertaking such a course
15 of action;"

16 Again, this would have been a committee
17 discussion. Who would have been commenting about the
18 church being leery of undertaking?

19 **BISHOP DUROCHER:** I can't remember. It was
20 one of the committee members.

21 **MR. ENGELMANN:** And ---

22 **THE COMMISSIONER:** I'm sorry, Mr. Engelmann.
23 In that paragraph you indicate -- well, it's
24 indicated the current policy is deficient. Was that your
25 view at the time, sir?

1 **BISHOP DUROCHER:** It was my view, yes.

2 **THE COMMISSIONER:** And can you briefly
3 outline what you thought the deficiencies were at that
4 time?

5 **BISHOP DUROCHER:** Well, I felt that the
6 policy that was arrived at with the help of the Children's
7 Aid Society and the police forces at the time was simply
8 that any allegations would be handed over to the Children's
9 Aid society and to the police force. I agree with that,
10 but it doesn't go far enough addressing a whole number of
11 other issues that need to be addressed.

12 And in that sense also it didn't correspond
13 to some of the main thrusts of From Pain to Life and I felt
14 it was important that this Diocese incorporate in its way
15 of functioning the recommendations of that policy.

16 **THE COMMISSIONER:** Thank you.

17 **MR. ENGELMANN:** Then, sir, at the end of
18 this meeting it says:

19 "Appendix: Thoughts on recommendations
20 This evolving appendix will note
21 thoughts and recommendations as the
22 meeting progress."

23 **BISHOP DUROCHER:** Yes.

24 **MR. ENGELMANN:** And it has three points
25 listed there on September 5, and that's the date of this

1 meeting, right?

2 BISHOP DUROCHER: Yes.

3 MR. ENGELMANN: It says:

4 "priests guilty of abuse cannot be
5 transferred; we need to look at how the
6 situation where priests are publicly
7 accused (web sites and so on) without
8 foundation; we need to look at the
9 moral of the good priests."

10 Are these items that were discussed that
11 were then to be resolved later? Is that the idea?

12 BISHOP DUROCHER: The technique here that
13 facilitators use, I think, is called "The Fridge", and it's
14 basically ---

15 MR. ENGELMANN: The ---

16 BISHOP DUROCHER: The Fridge.

17 MR. ENGELMANN: The Fridge?

18 BISHOP DUROCHER: Yes. It's a ---

19 MR. ENGELMANN: As in refrigerator?

20 BISHOP DUROCHER: As in refrigerator.

21 MR. ENGELMANN: All right.

22 BISHOP DUROCHER: The idea being that any
23 issues that come up in the discussion of the committee that
24 are not dealt with in the process are kind of named and
25 they're identified and set aside but not to be forgotten.

1 So that it's a way of making sure that none of the ideas
2 that are percolating during the work of the committee are
3 set aside.

4 **MR. ENGELMANN:** All right.

5 I guess we're both going to have to speak
6 up. I think that's rain. So I hope you can hear me, and
7 if you can't you can turn the volume up on the little
8 speaker.

9 **BISHOP DUROCHER:** Thank you.

10 **THE COMMISSIONER:** I don't know if it's on.

11 Is yours on?

12 **BISHOP DUROCHER:** Yes, it's on.

13 **MR. ENGELMANN:** So then let's move to the
14 next minutes if we can.

15 Sir, as I understand it, these minutes are
16 from September 16th, 2002, and that's your third meeting?

17 **BISHOP DUROCHER:** Correct.

18 **MR. ENGELMANN:** And there is a reference to
19 the fact that you're to meet some members of the Men's
20 Project group. I'm sorry; paragraph 3.

21 **BISHOP DUROCHER:** Yes.

22 **MR. ENGELMANN:** And is that something that
23 ends up happening, sir?

24 **BISHOP DUROCHER:** I remember meeting with
25 representatives of the Men's Project group, yes.

1 **MR. ENGELMANN:** All right.

2 And we've talked about these minutes to some
3 extent, in that Father MacNeil brought forward several
4 documents at this meeting and they're attached to these
5 minutes.

6 **BISHOP DUROCHER:** Yes.

7 **MR. ENGELMANN:** And again, sir, as in
8 before, at the end of the Minutes on page 6 we have the
9 "Appendix: thoughts on recommendations". We have some
10 other issues for the fridge.

11 **BISHOP DUROCHER:** Yes.

12 **MR. ENGELMANN:** And including one from this
13 meeting,

14 "address unsettled atmosphere in the
15 community; developing a policy is not
16 enough."

17 **BISHOP DUROCHER:** That's right.

18 **MR. ENGELMANN:** All right.

19 Then, sir, turning to Tab 40, and this is
20 the fourth meeting of the committee, and it appears to be
21 there are sort of two themes. One is addressing the
22 response and the other is addressing education and
23 training. Is that fair?

24 **BISHOP DUROCHER:** One is addressing the
25 response and the other one is addressing prevention.

1 **MR. ENGELMANN:** All right.

2 **BISHOP DUROCHER:** And two subcommittees were
3 set up actually at the previous meeting. At Tab 38, page
4 5, you'll see that two subcommittees are formed, one on
5 policy development, the other one on training and
6 education. And the training and education one the focus is
7 on how do we go about making sure that there is a safe
8 environment for children and for vulnerable adults within
9 our diocese.

10 **MR. ENGELMANN:** All right.

11 And we've talked about the ad in the
12 Standard Freeholder. At this point in time, according to
13 paragraph 3, you've just received the one response. I
14 understand there are a number that come in afterwards?

15 **BISHOP DUROCHER:** That's correct.

16 **MR. ENGELMANN:** In paragraph 4, you're
17 reporting about a meeting you had with three members of the
18 Men's Project group.

19 **BISHOP DUROCHER:** Yes.

20 **MR. ENGELMANN:** And they're requesting that
21 a victim of sexual abuse sit on the committee.

22 **BISHOP DUROCHER:** Yes.

23 **MR. ENGELMANN:** And at this time there was
24 not a victim of sexual abuse on the committee; correct?

25 **BISHOP DUROCHER:** That's right.

1 **MR. ENGELMANN:** All right.

2 And you had approached a couple of
3 individuals who had been abused by a priest and they had
4 both declined?

5 **BISHOP DUROCHER:** That's correct.

6 **MR. ENGELMANN:** All right.

7 So you were -- but the committee felt that
8 it was important to have someone who was a victim of abuse
9 on the committee?

10 **BISHOP DUROCHER:** That's right.

11 **MR. ENGELMANN:** Then as well there were some
12 discussions concerning education and training about
13 screening initiatives.

14 **BISHOP DUROCHER:** That's right.

15 **MR. ENGELMANN:** And this deals with the
16 screening of not just employees but also of volunteers?

17 **BISHOP DUROCHER:** Particularly the
18 volunteers. There was the Ontario Screening Initiative and
19 later it's indicated ---

20 **MR. ENGELMANN:** Yes.

21 **BISHOP DUROCHER:** --- focused on volunteers.

22 **MR. ENGELMANN:** Right.

23 **BISHOP DUROCHER:** Yes.

24 **MR. ENGELMANN:** And that in fact is
25 something that is implemented?

1 **BISHOP DUROCHER:** It is now, yes.

2 **MR. ENGELMANN:** Now, there is a reference on
3 the next page -- and I'm just looking at the top of the
4 next page. It says:

5 "There has not been a high degree of
6 implementation of the diocesan policy in Cornwall-
7 Alexandria. Members note that resourcing is a huge issue."

8 Do you know what is meant by that?

9 **BISHOP DUROCHER:** Yes. The diocesan
10 screening policy, when the Province of Ontario started up
11 the Ontario Screening Initiative and the dioceses of
12 Ontario, through the OCCB, decided to participate with it,
13 each diocese was encouraged to develop its own diocesan
14 policy.

15 The policy that Alexandria-Cornwall
16 developed came out -- they developed a policy before the
17 OCCB was ready to give an example of a policy, a draft
18 policy. So the draft policy that came out after the one
19 that Alexandria-Cornwall -- their first policy was
20 developed -- was much more developed.

21 **MR. ENGELMANN:** All right.

22 **BISHOP DUROCHER:** And so I felt we needed to
23 go towards that more full -- a fuller implementation of the
24 draft policy from the OCCB.

25 **MR. ENGELMANN:** All right.

1 And I notice as well when you were dealing
2 with a training and education plan under point 7, at the
3 bottom of the page, one of the issues that's discussed is
4 finding ways to reduce risk.

5 **BISHOP DUROCHER:** That's correct.

6 **MR. ENGELMANN:** And then lastly we have some
7 of those fridge issues, none from the October 2nd meeting,
8 but we still have the two -- the issues from other
9 meetings?

10 **BISHOP DUROCHER:** Yes.

11 **MR. ENGELMANN:** Then we have the report of
12 the fifth meeting?

13 **BISHOP DUROCHER:** Yes.

14 **MR. ENGELMANN:** And would it be fair to say
15 that the individuals that are identified by first names in
16 that first paragraph, would they have been victims of child
17 sexual abuse who were invited to participate?

18 **BISHOP DUROCHER:** Well, Steve was invited --
19 Steve Parisien was invited to sit on the Committee and he
20 declined.

21 **MR. ENGELMANN:** Okay. And there's a
22 reference to an Alain as well.

23 **BISHOP DUROCHER:** Alain Séguin.

24 **MR. ENGELMANN:** And did either of those
25 individuals become a member of the Committee?

1 **BISHOP DUROCHER:** No.

2 **MR. ENGELMANN:** Okay. Now, it says the
3 Committee receives and studies a second draft of the new
4 policy. I'm looking at page 4 -- sorry, paragraph 4. So
5 would it be fair to say that you're working with a document
6 as these meetings are progressing? Is that what is
7 happening?

8 **BISHOP DUROCHER:** Yes, they've started
9 working on a draft, yes.

10 **MR. ENGELMANN:** All right.

11 And what is referenced in paragraph 3? It
12 mentions the standard freeholder and an editorial; what is
13 that about?

14 **BISHOP DUROCHER:** The recollection is vague.
15 I remember that there was -- I don't know if it was an
16 editorial or a letter to the editor that took to task --
17 took me to task for following up on my commitments that I
18 made when I was -- when I arrived here as a Bishop and the
19 Committee members felt that it was unfair, so they wrote a
20 letter to the editor, signing the letter.

21 **MR. ENGELMANN:** And at this point in time --
22 I'm looking at paragraph 7 -- you've received five
23 responses, and those are shared?

24 **BISHOP DUROCHER:** That's right.

25 **MR. ENGELMANN:** And we seem to have an

1 evolution of the mandate, and I'm looking at paragraph 5,
2 now includes "and other vulnerable parishioners".

3 BISHOP DUROCHER: Yes.

4 MR. ENGELMANN: And I'm just looking at page
5 2 then with the graph. Again, this appears to be sort of
6 additions or deletions to the draft document that people
7 are working on; is that fair?

8 BISHOP DUROCHER: That's correct.

9 MR. ENGELMANN: So, for example, under
10 number 6 there's a suggestion that wording from the *Child*
11 *and Family Services Act* be added with respect to legal
12 obligation to report?

13 BISHOP DUROCHER: That's correct.

14 MR. ENGELMANN: And again we have, just
15 finally at the end, those fridge issues from those first
16 two meetings.

17 BISHOP DUROCHER: Yes.

18 MR. ENGELMANN: Okay. Then we have the
19 report on the sixth meeting, and again there appears to be
20 reviews of public responses. Again, those would be the
21 responses to the ad?

22 BISHOP DUROCHER: That's right.

23 MR. ENGELMANN: And then at the bottom of
24 the page, paragraph 5, there's a reference to welcoming
25 three men who had been abused by men as children, one of

1 whom had been abused by clergy?

2 **BISHOP DUROCHER:** Yes.

3 **MR. ENGELMANN:** So there was a participation
4 at the meeting by victims of child sexual abuse?

5 **BISHOP DUROCHER:** There was a listening
6 session with members of the Men's Group. Three of them
7 came and told their stories to us and we listened to their
8 stories.

9 **MR. ENGELMANN:** All right.

10 I'm just looking at the next page then. It
11 says:

12 "The depth of the pain and of required
13 community healing is manifest. The
14 Church needs a voice to touch this
15 pain. The Committee will reflect on
16 possible follow-ups, including the
17 creation of listening circles."

18 Did that in fact happen, sir? After this
19 meeting, was there some effort to do that?

20 **BISHOP DUROCHER:** No, there wasn't.

21 **MR. ENGELMANN:** Is that something -- sorry.

22 **BISHOP DUROCHER:** In a sense, what I could
23 say is that after the experience of listening, there was
24 some sharing among us about things that would be needed
25 down the road. I would expect that that's what the second

1 mandate -- the second part of the mandate of this
2 Commission is about.

3 **MR. ENGELMANN:** I was just going to ask if
4 that might be something that you would be thinking about
5 for the future?

6 **BISHOP DUROCHER:** Absolutely. I think
7 anything that I can do personally as a Bishop or that the
8 Diocese can do to facilitate healing, it's essential that
9 we be involved in it.

10 **MR. ENGELMANN:** Okay. Sir, I note then on
11 the last -- the third page, there's a reference to those
12 fridge items again. They then disappear by the seventh
13 meeting, which is at Tab 43.

14 **BISHOP DUROCHER:** That's correct.

15 **MR. ENGELMANN:** Do they ever get resolved or
16 dealt with?

17 **BISHOP DUROCHER:** I can't remember. They
18 were looked at and basically the Committee members either
19 decided that they had been resolved or that it was beyond
20 the mandate of the Committee to resolve them.

21 **MR. ENGELMANN:** All right.

22 I'm going to skip the next tab. We'll come
23 back to that.

24 There's a Tab 42.1 and there's notes
25 regarding Raymond Legault or Lagault.

1 **BISHOP DUROCHER:** Legault -- Dr. Raymond
2 Legault.

3 **MR. ENGELMANN:** And he becomes the delegate;
4 is that correct, referred to in the eventual policy?

5 **BISHOP DUROCHER:** That's correct.

6 **MR. ENGELMANN:** And this is just some
7 background or biography of this individual?

8 **BISHOP DUROCHER:** That's right.

9 **MR. ENGELMANN:** All right.

10 **BISHOP DUROCHER:** And he is still the
11 Bishop's delegate for these issues.

12 **MR. ENGELMANN:** All right.

13 So then the document we see at Tab 44, that
14 then is the report?

15 **BISHOP DUROCHER:** That's correct.

16 **MR. ENGELMANN:** And this is submitted to you
17 by your Ad Hoc Committee?

18 **BISHOP DUROCHER:** That's right.

19 **MR. ENGELMANN:** And so the references to the
20 delegate on page 5 under "Reporting Guidelines", that is
21 Mr. Legault?

22 **BISHOP DUROCHER:** Yes, he will become the
23 delegate, yes.

24 **MR. ENGELMANN:** All right.

25 And this report talks about setting up an

1 advisory committee. Were individuals named at that time
2 for the advisory committee or is that something that
3 happens later?

4 **BISHOP DUROCHER:** No, this is still a draft.
5 This is not the policy.

6 **MR. ENGELMANN:** Right.

7 **BISHOP DUROCHER:** So though this was kept in
8 the policy and once the policy was promulgated, then the
9 committees were set up.

10 **MR. ENGELMANN:** All right.

11 **BISHOP DUROCHER:** And the delegate named.

12 **MR. ENGELMANN:** Would the same be true of
13 Mr. Legault?

14 **BISHOP DUROCHER:** That's right.

15 **MR. ENGELMANN:** Okay. Sir, I had a question
16 dealing with the guidelines for dealing with an allegation.
17 It says under 5 and on page 6:

18 "If no charges are laid and the
19 Committee deems there are reasonable
20 and probable grounds to believe that an
21 offence has been committed, the
22 Committee will advise the Bishop
23 through the delegate on issue of
24 assignment."

25 So it would suggest that an advisory

1 committee could look into a situation even if criminal
2 charges were not laid?

3 BISHOP DUROCHER: That's correct.

4 MR. ENGELMANN: Now, sir, I'm just looking
5 then at Tab 11 -- sorry, page 11 of Tab 44. There's a
6 reference to an Implementation Committee being foreseen.

7 BISHOP DUROCHER: Yes.

8 MR. ENGELMANN: Was one later set up?

9 BISHOP DUROCHER: We hired two people at the
10 Diocesan Centre to work on the implementation of a
11 screening process.

12 MR. ENGELMANN: And on page 13, under
13 "Recommendations for Follow-up" there's a reference at
14 paragraph 4:

15 "Should a victim request a
16 confidentiality agreement, that it be
17 absolutely clear that it's being done
18 at the request of the victim,
19 represented by independent legal
20 counsel and that it in no way attempts
21 to limit any rights of the victim
22 flowing from criminal law."

23 That was considered to be an important
24 recommendation to follow up on?

25 BISHOP DUROCHER: All of these

1 recommendations are important. It's part of -- they're
2 recommendations, yes.

3 **MR. ENGELMANN:** And as I understand it, sir
4 -- and this doesn't address this issue, but you may have
5 done so later -- what about the situation of
6 confidentiality agreements if they are requested by
7 institutions? It's my understanding that subsequent to
8 this, you've taken the position or the Diocese has taken
9 the position that it is opposed to confidentiality
10 agreements in settlements of cases involving child sexual
11 abuse?

12 **BISHOP DUROCHER:** In principle, that's
13 correct.

14 **MR. ENGELMANN:** You've also said here as a
15 recommendation that a victim be a member of the Committee
16 for Victims.

17 **BISHOP DUROCHER:** Yes.

18 **MR. ENGELMANN:** I would have thought that
19 was self-evident, but that ---

20 **BISHOP DUROCHER:** I'm sorry; the title has
21 changed. It's called the Victims Care Committee, which is
22 a committee that is established to identify sources of help
23 and of treatment and support for people who would come
24 forward and are identified as victims. It's not
25 necessarily evident that a victim should be on such a

1 committee. It's more of a guidance or a resource
2 committee, but the group felt that it would be important to
3 have a victim sitting on that committee.

4 MR. ENGELMANN: Okay. So the term Committee
5 for Victims was a term at that time?

6 BISHOP DUROCHER: You're still reading from
7 a draft here.

8 MR. ENGELMANN: I -- yes.

9 BISHOP DUROCHER: That's changed. It was
10 changed.

11 MR. ENGELMANN: Yes.

12 BISHOP DUROCHER: It was.

13 MR. ENGELMANN: Then at Tab 45 we have a
14 press release ---

15 BISHOP DUROCHER: Yes.

16 MR. ENGELMANN: --- that set out the fact
17 that you had received this draft ---

18 BISHOP DUROCHER: That's correct.

19 MR. ENGELMANN: --- and talked about some of
20 the major highlights of the draft protocol?

21 BISHOP DUROCHER: Right.

22 MR. ENGELMANN: And it also talked about the
23 fact that you received submissions from a number of groups?

24 BISHOP DUROCHER: Yes.

25 MR. ENGELMANN: And the fact that you were

1 moving forward by sending this out to various parish
2 councils?

3 BISHOP DUROCHER: Correct.

4 MR. ENGELMANN: Then, sir, at Tab 46, this
5 is then the final policy?

6 BISHOP DUROCHER: That's right.

7 MR. ENGELMANN: And I understand there have
8 been some minor amendments since, but I was just curious;
9 this is dated April 2003 ---

10 BISHOP DUROCHER: Yes.

11 MR. ENGELMANN: --- but only effective in
12 July? Am I correct?

13 BISHOP DUROCHER: Yes.

14 MR. ENGELMANN: Why was that?

15 BISHOP DUROCHER: To give us time to set up
16 the committees, to implement it.

17 MR. ENGELMANN: All right.

18 And, in fact, was that done then?

19 BISHOP DUROCHER: Yes, it was.

20 MR. ENGELMANN: All right.

21 Just give me a moment.

22 (SHORT PAUSE/COURTE PAUSE)

23 MR. ENGELMANN: Sir, at the bottom of the
24 first page of the final policy there's the statement:

25 "They replace..."

1 These guidelines obviously.

2 "They replace the diocesan policy which
3 had previously been published on June
4 21st, 1995."

5 **BISHOP DUROCHER:** Yes.

6 **MR. ENGELMANN:** So if we could go back to
7 Tab 32 for a moment, they would be replacing what we see as
8 Appendix "C", page 37?

9 **BISHOP DUROCHER:** Yes.

10 **MR. ENGELMANN:** What about the protocol at
11 pages 38 and 39 ---

12 **BISHOP DUROCHER:** Yes.

13 **MR. ENGELMANN:** --- do the new guidelines
14 replace that as well or is that still in place?

15 **BISHOP DUROCHER:** The new guidelines do not
16 address some of the issues that are in that protocol on
17 pages 38 and 39, but in those areas where there would be
18 contradiction between the two, the new guidelines would
19 supersede that. Some of the issues that are on that page
20 38 and 39 are still to be studied down the road.

21 **MR. ENGELMANN:** All right.

22 So if there's a conflict between the two,
23 the more recent policy is the policy you're following?

24 **BISHOP DUROCHER:** Absolutely.

25 **MR. ENGELMANN:** If something is not

1 addressed in the new policy, it's still in existence from
2 this protocol, but you will be examining that in the
3 future?

4 **BISHOP DUROCHER:** Yes.

5 **MR. ENGELMANN:** Did I understand that
6 correctly?

7 **BISHOP DUROCHER:** Yes.

8 **MR. ENGELMANN:** And just a couple of
9 questions on the final policy. I understand -- for
10 example, I'm looking at page 5 under "Reporting
11 Guidelines". One of the changes you would have made
12 between the draft and the final version is at paragraph 2?
13 It says:

14 "If the allegation refers to a
15 historical abuse, the delegate will
16 inform the Children's Aid Society."

17 I believe that was discretionary before.

18 **BISHOP DUROCHER:** That's correct.

19 **MR. ENGELMANN:** But now it's mandatory?

20 **BISHOP DUROCHER:** That's correct.

21 I must say we discussed this at length. I
22 remember the discussion very clearly within the committee
23 and ultimately it was decided to, how could you say, err on
24 the side of prudence.

25 **MR. ENGELMANN:** Yes.

1 **BISHOP DUROCHER:** So that though there is no
2 obligation to report, that we would still report it to the
3 Children's Aid.

4 **MR. ENGELMANN:** I suppose that becomes an
5 issue if the individual who is the alleged offender may
6 still be a caregiver under the definition in the Act but
7 that part of the discussion ---

8 **BISHOP DUROCHER:** We just -- we decided --
9 we were discussing those things and finally we said we
10 would report it to the Children's Aid and let them make the
11 determination whether this seems to be followed up or not.

12 **MR. ENGELMANN:** Fair enough.

13 I'm curious, there's a reference to the
14 "sacramental seal remains sacred and cannot be broken". Do
15 you know why that's on this page dealing with reporting
16 guidelines?

17 **BISHOP DUROCHER:** It was simply a note that
18 was added as you noted in the "fridge" comments, it was
19 something that was in the minds of the people and they felt
20 it was important that it be addressed somehow and I decided
21 to address it this way simply reminding everyone involved
22 of the Church's doctrine and teaching on the Sacrament of
23 Confession.

24 **MR. ENGELMANN:** Now, again, then on page 6
25 and then onto page 7, you have a situation where after

1 Children's Aid or police investigation, "...no charges are
2 laid but the Advisory Committee deems the innocence of the
3 accused remains in question..."

4 They can investigate?

5 **BISHOP DUROCHER:** Yes.

6 **MR. ENGELMANN:** And then I am also looking
7 then on page 7 of your outcome, it says in 4.1 it describes
8 what happens if there is a conviction.

9 **BISHOP DUROCHER:** Yes.

10 **MR. ENGELMANN:** Or presumably a guilty plea.

11 Correct?

12 **BISHOP DUROCHER:** Correct.

13 **MR. ENGELMANN:** In 4.2, it says:

14 "If a judicial process or the Advisory
15 Committee determines that no offence
16 has been committed, the Advisory
17 Committee brings the case to a close".

18 And then it goes on to say:

19 "If the accused has been put on leave
20 of absence, the accused is permitted to
21 resume his/her duties".

22 Sir, we've heard from at least one
23 institution -- and I can't remember perhaps two or three --
24 on this issue of what happens sometimes when employers have
25 to deal with employees who are not convicted in a criminal

1 process. In fact, we heard from a couple of the CEO's of
2 school boards about monitoring criminal cases, about
3 different standards of proof, about technicalities, stays,
4 other things, even acquittals, where they are vigilant in
5 following the process and even if a person is not convicted
6 of guilt beyond a reasonable doubt, they examine and make a
7 determination as to whether or not that employee can return
8 to his or her duties.

9 This policy appears to simply say if there
10 is no conviction, the person is returned to his or her
11 duties.

12 **BISHOP DUROCHER:** If there is no conviction
13 or if the advisory committee determines that no offence has
14 been committed, I think the policy is open to the
15 possibility of the advisory committee directing an
16 investigation and if there is a doubt, it remains advising
17 the Bishop on how to proceed. It would only be in the case
18 where there is a -- how can I say -- on the part of the
19 committee that there is no doubt that this person can go
20 back into ministry and then we would move that way.

21 **MR. ENGELMANN:** It says:

22 "If a judicial process or the Advisory
23 Committee determines..." ---

24 **BISHOP DUROCHER:** That's right. So the
25 Advisory Committee ---

1 **MR. ENGELMANN:** If either of them
2 determines.

3 **BISHOP DUROCHER:** I'm sorry. It's ---

4 **MR. ENGELMANN:** Isn't that what it says?

5 **BISHOP DUROCHER:** The first 4.1 says that if
6 -- where does it say, we're looking at ---

7 **MR. ENGELMANN:** I'm in 4.2, sir.

8 **BISHOP DUROCHER:** Yes, yes, I realize.

9 In 3.2, it indicates that if no charges --
10 oh well, that's charges -- I realize what you are saying.

11 **MR. ENGELMANN:** It seems to be a different
12 approach ---

13 **BISHOP DUROCHER:** Yes.

14 **MR. ENGELMANN:** --- for example, than the
15 school board took and perhaps other employers take.

16 **BISHOP DUROCHER:** Right. Perhaps 3.2 should
17 be broader in terms of not just no charges are laid or --
18 it's in my mind clear that if the Advisory Committee feels
19 that there is doubt about somebody's innocence even after a
20 judicial process, that the Advisory Committee could then go
21 on to investigate that.

22 **MR. ENGELMANN:** Do you have a policy or
23 procedure in place whereby the Advisory Committee or a
24 designate or delegate would follow judicial processes with
25 that view in mind?

1 **BISHOP DUROCHER:** Would follow investigative
2 process with that in mind?

3 **MR. ENGELMANN:** No, would follow judicial
4 processes.

5 **BISHOP DUROCHER:** What do you mean?

6 **MR. ENGELMANN:** Well, I mean you might have
7 a representative who monitors a criminal case for example.

8 **BISHOP DUROCHER:** Yes, I believe it's
9 written that the delegate will follow. I can't remember
10 where. In 3.1:

11 "The delegate will not undertake an
12 investigation but will remain vigilant
13 and will maintain appropriate ongoing
14 communications with the civil
15 authorities. The notion of remaining
16 vigilant includes following the
17 judicial process closely."

18 **MR. ENGELMANN:** Is that a process that the
19 Diocese follows?

20 **BISHOP DUROCHER:** We would if a case came
21 up, yes.

22 **MR. ENGELMANN:** All right.

23 Now, there is an issue under
24 "Accountability". It suggests that:

25 "The Bishop will annually establish a

1 Review Committee to study the
2 effectiveness of the Diocesan
3 Guidelines and recommend improvements..."
4 et cetera.

5 Sir, this was passed approximately three
6 years ago. Have you had annual reviews?

7 **BISHOP DUROCHER:** We've had a first review.
8 What happened after the establishment of this policy was
9 that our insurance company came forward with an offer to
10 conduct professional audits of all policies throughout
11 Ontario for the dioceses.

12 **MR. ENGELMANN:** Okay. So this is for the
13 OCCCB and then for each diocese?

14 **BISHOP DUROCHER:** No, for each diocese; not
15 for the OCCCB; for the dioceses themselves.

16 **MR. ENGELMANN:** Yes.

17 **BISHOP DUROCHER:** It is a service that they
18 provide. We were not aware of that service when we were
19 setting this up. I had struck up a committee to start
20 working on this, but then when we were made aware of this
21 service that was already offered with very professional
22 people and experienced, I decided that it was better to go
23 that route and in the subsequent iteration of this policy,
24 this has been changed to the rule that the Bishop will
25 commission and audit an independent audit every second year

1 of the policy and of its implementation.

2 **MR. ENGELMANN:** All right.

3 So is that what we see at Tab 47, sir? We
4 have something from the Operations Manager of Catholic
5 Mutual Canada?

6 **BISHOP DUROCHER:** Exactly.

7 **MR. ENGELMANN:** And that's the insurance
8 company you referred to?

9 **BISHOP DUROCHER:** That's right.

10 **MR. ENGELMANN:** And I just note there is a
11 report, a review criteria attached and it says "Draft".
12 Was there a final version of this?

13 **BISHOP DUROCHER:** I believe this is the
14 final version.

15 **MR. ENGELMANN:** All right.

16 And my reference earlier to the whole issue
17 of confidentiality agreements, is that what we see at page
18 6?

19 **BISHOP DUROCHER:** These were some of the
20 questions that were asked of us, yes.

21 **MR. ENGELMANN:** And the answer being:

22 "The Dioceses does not permit, or will
23 not consider entering into a
24 confidential settlement agreement."

25 **BISHOP DUROCHER:** That's right.

1 **MR. ENGELMANN:** Okay.

2 **THE COMMISSIONER:** What kind of
3 recommendations did they make?

4 You're saying that at the end they did make
5 specific recommendations. And in the last paragraph,
6 they're saying they're:

7 "...pleased to report the recommendations
8 were presently underway to undertake..."

9 **BISHOP DUROCHER:** So page 16 and 17 of this
10 tab, of Tab 47, page 16 and 17 there are ---

11 **THE COMMISSIONER:** Ah, okay.

12 **BISHOP DUROCHER:** --- seven recommendations
13 made.

14 **MR. ENGELMANN:** And if we wanted to actually
15 track those changes ---

16 **THE COMMISSIONER:** No, I'm sorry, I'm sorry.
17 Those are the recommendations reported From Pain to Hope.
18 That's not from the insurance company. Or was the
19 reference by the insurance company?

20 **BISHOP DUROCHER:** No, these are
21 recommendations from the insurance company, from the
22 auditing process to us.

23 **MR. ENGELMANN:** There is a preamble there.
24 "The individual recommendations put
25 forward in our reporters files."

1 **THE COMMISSIONER:** Thank you.

2 **MR. ENGELMANN:** And I'm just -- Bishop
3 Durocher, if we would look at Tab 49, and if we wanted to
4 track some of those recommendations and changes that the
5 Diocese made, I am looking at page 5, at the bottom.

6 **BISHOP DUROCHER:** Yes.

7 **MR. ENGELMANN:** Is that an indication of a
8 change?

9 **BISHOP DUROCHER:** Tab 49, in a sense, is a
10 draft. It was never promulgated; it was a working
11 document; it was perhaps a mistake on my part to put it in
12 there. It's Tab 50, which gives the amended policy on --
13 dated August 2005.

14 **MR. ENGELMANN:** Right. So is there an easy
15 way for us to determine what sections have, in fact, been
16 amended or if you could just tell us briefly?

17 **BISHOP DUROCHER:** The amendments between
18 2003 and 2005 consist in this; first of all, the creation
19 of a position of alternate diocesan spokesperson. On the
20 committee we had only one diocesan spokesperson. They
21 recommended that an alternate be named.

22 **MR. ENGELMANN:** Okay.

23 **BISHOP DUROCHER:** Secondly, in the
24 definition of sexual assault of an adult, we recognize that
25 there can be sexual assault even if there is consent on the

1 part of both parties with adults.

2 MR. ENGELMANN: Yes.

3 BISHOP DUROCHER: So that when a person
4 recognizes him or herself to have been victimized, then we
5 should consider it a sexual assault.

6 Third, we simply addressed the issue of
7 third party allegations even when they are anonymous. In
8 the first version, we hadn't dealt with that. In the new
9 version, we simply identify that the delegate is to do
10 everything he can to investigate even a third-party
11 allegation, even in the case of anonymity.

12 Fourth, the inclusion of the obligation to
13 advise the Congregation of the Doctrine of the Faith when
14 the complainant is under 28 years old. The Congregation of
15 the Doctrine of the Faith has advised us that any case
16 where we are after a preliminary investigation we feel
17 there is reason to believe that a sexual assault has been
18 committed on a minor should be addressed -- has to be
19 addressed to the Congregation of the Doctrine of the Faith
20 within a ten-year period. There is a ten-year prescription
21 after the age of 18. So if the complainant is under the
22 age of 28, then we would send that forward to the
23 Congregation of the Doctrine of the Faith.

24 That's simply getting in line with Canon Law
25 here.

1 **MR. ENGELMANN:** So if we had situations of
2 historical sexual abuse where individuals were coming
3 forward at a later age, you wouldn't be reporting it to
4 that congregation, but you would otherwise be dealing with
5 it under your policy?

6 **BISHOP DUROCHER:** That's correct. That's
7 correct.

8 Number 5, listing of possible ways of caring
9 for affected parishioners. It was recommended that we name
10 a few things that could be done, particularly the Bishop
11 going to speak with the parishioners.

12 And sixth change was that, as I said, we
13 changed from working with appointing an auditing committee
14 to commissioning an independent audit and to going every
15 second year.

16 So those were the changes between 2003 and
17 2005.

18 **MR. ENGELMANN:** Sir, as well, as I
19 understand it at Tab 48, we have a pamphlet. Is this
20 something prepared by the Diocese of Alexandria-Cornwall?

21 **BISHOP DUROCHER:** This was prepared by the
22 Diocese of Alexandria-Cornwall for distribution in all our
23 parishes to all our parishioners.

24 **MR. ENGELMANN:** Is this something that is
25 available in the back of churches ---

1 BISHOP DUROCHER: Correct.

2 MR. ENGELMANN: --- should people want to --

3 -

4 BISHOP DUROCHER: Yes.

5 MR. ENGELMANN: This would be throughout the
6 parishes ---

7 BISHOP DUROCHER: Throughout all the
8 parishes of the Diocese, yes.

9 MR. ENGELMANN: And sir, you've told us, I
10 think, that Tab 49 -- well, it is superseded by Tab 50, and
11 Tab 50 would have all of the amendments that you just
12 described for us. Correct?

13 BISHOP DUROCHER: Exactly.

14 MR. ENGELMANN: If I could just have a
15 moment.

16 THE COMMISSIONER: M'hm.

17 (SHORT PAUSE/COURTE PAUSE)

18 MR. ENGELMANN: You then describe and I am
19 looking at page 19 of your outline, the bottom of the page,
20 a diocesan committee being created in accordance with the
21 recommendations of the ad hoc committee.

22 BISHOP DUROCHER: Yes.

23 MR. ENGELMANN: And you have six members of
24 the Advisory Committee, including a Diocesan spokesperson.
25 Are those individuals listed in the documentation? I'm not

1 sure.

2 **BISHOP DUROCHER:** I can't remember if we put
3 it in or not. I don't think so, no.

4 **MR. ENGELMANN:** Do you know who they are off
5 hand, sir?

6 **BISHOP DUROCHER:** Of the Advisory Committee,
7 obviously, Dr. Legault; the assistant delegate, the deputy
8 delegate is Father Kelvin Maloney, who our judicial vicar;
9 Mr. Gerald -- the names are ---

10 **MR. ENGELMANN:** Samson?

11 **BISHOP DUROCHER:** Samson, is our
12 spokesperson, diocesan spokesperson; Sister Louise Bazinet,
13 a religious sister who is a retired teacher; Mr. Villeneuve
14 whose first name I forget, former warden, jail warden.
15 That's for the Advisory Committee. I think there's one
16 more member. I can't remember right now. And then the
17 Victims' Care Committee on top with Mr. C. Parisien, there
18 are three people who are either psychologists,
19 psychotherapists or spiritual counsellors.

20 **MR. ENGELMANN:** And how did they relate to
21 the Diocesan Committee? You have an Advisory Committee.
22 You have a Victims' Care Committee.

23 **BISHOP DUROCHER:** That is the committee.

24 **MR. ENGELMANN:** Together they are called the
25 Diocesan Committee?

1 **BISHOP DUROCHER:** Yes.

2 **MR. ENGELMANN:** All right. And that
3 committee continues to operate?

4 **BISHOP DUROCHER:** It certainly does, yes.

5 **MR. ENGELMANN:** Yes, thank you.

6 Now, you talk in the last portion of your
7 outline -- well, the last two portions where in "D" at page
8 20 about "The Role of Canon Law in Dealing with Allegations
9 of Abuse". Sir, you've indicated that you have some
10 knowledge and I know you have the one-year degree in Canon
11 Law.

12 **BISHOP DUROCHER:** Yes.

13 **MR. ENGELMANN:** So you've given us a little
14 summary of Canon Law dealing with allegations of abuse. Is
15 that fair?

16 **BISHOP DUROCHER:** Yes.

17 **MR. ENGELMANN:** This is your work?

18 **BISHOP DUROCHER:** Yes.

19 **MR. ENGELMANN:** Not the work of Reverend
20 Morrisey?

21 **BISHOP DUROCHER:** No, no, this is my work.

22 **MR. ENGELMANN:** Yes. And you've talked
23 about "Canon Law does provide that once an allegation is
24 'deemed' to be true that the infraction is punished". How
25 is it that allegations could be deemed to be true and who

1 would do that?

2 **BISHOP DUROCHER:** Well, the bishop -- the
3 first thing a bishop does is investigate whether it's
4 founded or not and typically as I was saying earlier can do
5 this through delegating one or two people to do this. They
6 will report to the bishop. Then the bishop -- it will
7 depend on the circumstance. I mean if there has been, for
8 example, a trial, a criminal trial and the person has been
9 found guilty, then there would be no need to go further
10 than that. On the other hand, if there isn't, then the
11 bishop can proceed either through a canonical trial itself,
12 which is quite rare. There's never been a canonical trial
13 in our Diocese. Or he would proceed through the necessary
14 informal process that he would determine *ad hoc* until he
15 came to a conclusion and then could apply --
16 administratively he could apply penalties.

17 **MR. ENGELMANN:** Okay. You say there's never
18 been a canonical trial.

19 **BISHOP DUROCHER:** Yes.

20 **MR. ENGELMANN:** Terrible time with that word
21 -- but it appears from your outline that that would be
22 required to reduce a priest to lay status.

23 **BISHOP DUROCHER:** That's correct.

24 **MR. ENGELMANN:** You, as a Bishop, do not
25 have the power to do that?

1 **BISHOP DUROCHER:** No, only to -- to dismiss
2 a priest from the clerical state, you must go through a
3 canonical process. Only the Pope could do that
4 administratively.

5 **MR. ENGELMANN:** What about dismissing the
6 priest from your Diocese? You've talked about that term
7 "excardination".

8 **BISHOP DUROCHER:** I cannot excardinate a
9 priest from a diocese until another diocese is ready to
10 incardinate him.

11 **MR. ENGELMANN:** And if there was not another
12 diocese ready to do that, then the only way something like
13 that could be done is after a canonical trial?

14 **BISHOP DUROCHER:** That's correct. But
15 excardination does not -- does not dismiss someone from the
16 clerical state.

17 **MR. ENGELMANN:** Right.

18 **BISHOP DUROCHER:** If what you're trying to
19 do is dismiss someone from the clerical state,
20 excardination is not the way you go. You go through a
21 canonical process.

22 **MR. ENGELMANN:** I assume in some cases
23 priests just might resign.

24 **BISHOP DUROCHER:** You can resign as a
25 priest, but you still hold on -- you can resign from a job.

1 **MR. ENGELMANN:** Yes.

2 **BISHOP DUROCHER:** You know, you can resign
3 from your job. Let's say I resign as parish priest or I
4 resign as whatever, but you haven't resigned from your
5 status as a priest and the powers you have as a priest to
6 do ministry. You would request at that point to be -- you
7 could request to be dismissed from the clerical state. At
8 that point, there is a process that you go through. As a
9 matter of fact, I've heard of cases in other dioceses where
10 bishops have convinced priests to request that, which is a
11 much less onerous process than a canonical trial.

12 **MR. ENGELMANN:** And that could be for any
13 number of reasons?

14 **BISHOP DUROCHER:** It could be, yes.

15 **MR. ENGELMANN:** It could be an indictable
16 offence situation. It could be a drug or alcohol problem.
17 It could be a priest wanting to marry or do something like
18 that.

19 **BISHOP DUROCHER:** Exactly.

20 **MR. ENGELMANN:** All right.

21 Now, sir, the last part of your outline
22 deals with "Selection and Screening of Diocesan Members".

23 **BISHOP DUROCHER:** Yes.

24 **MR. ENGELMANN:** And you set out some of the
25 requirements under Canon Law.

1 **BISHOP DUROCHER:** Yes.

2 **MR. ENGELMANN:** For the screening of priests
3 and also of deacons.

4 **BISHOP DUROCHER:** That's correct.

5 **MR. ENGELMANN:** You've also then laid out
6 the fact that you now have screening processes in place for
7 volunteers and lay employees.

8 **BISHOP DUROCHER:** That's right.

9 **MR. ENGELMANN:** And that you are
10 participating in the Ontario Screening Initiative.

11 **BISHOP DUROCHER:** The Ontario Screening
12 Initiative is over. It's a process that lasted just a
13 couple of years. The Ontario Government -- there's a tab
14 relating to that. Do you want to go take a look at that?

15 **MR. ENGELMANN:** Sure.

16 **BISHOP DUROCHER:** I believe it's Tab 51.
17 The Ontario Screening Initiative lasted from March '99 to
18 June 2002, and it basically brought together a number of
19 institutions within the Ontario community. You see on the
20 second page,

21 "Led by Volunteer Canada, the
22 consortium members include
23 representatives of the Anglican,
24 Catholic, Unitarian and United faiths,
25 the Ontario Community Support

1 Association, the Ontario Rural Council,
2 Parks and Recreation Ontario, and the
3 Sport Alliance of Ontario."

4 So this consortium basically was funded by
5 the Ontario Government for these few years to help each of
6 those groups develop their own screening processes. And so
7 a subgroup was created for the religious communities and
8 the Ontario Conference of Catholic Bishops was very
9 involved in that process.

10 **MR. ENGELMANN:** In fact, at Tab 52, these
11 are guidelines from the OCCB?

12 **BISHOP DUROCHER:** The OCCB eventually
13 developed a draft guideline that could be used by dioceses
14 to develop their own guidelines.

15 **MR. ENGELMANN:** All right. And again, this
16 would be not binding but perhaps influential?

17 **BISHOP DUROCHER:** Exactly.

18 **MR. ENGELMANN:** All right. And some of
19 those ten steps of screening are set out starting at page 4
20 of this document under Protocol for High Risk Positions?

21 **BISHOP DUROCHER:** Yes, yes.

22 **MR. ENGELMANN:** And then what do we see at
23 Tab 53, sir? Is this the policy that you were talking
24 about that had been developed before the OCCB policy?

25 **BISHOP DUROCHER:** Exactly. This was the

1 first policy in the Diocese that was developed. As we
2 moved forward with the Ontario Screening Initiative,
3 different dioceses moved at different rhythms. This being
4 a smaller diocese, they worked quickly and put together a
5 short policy.

6 The problem with this policy is that it
7 basically focussed everything on the police criminal
8 background check.

9 **MR. ENGELMANN:** Yes.

10 **BISHOP DUROCHER:** Whereas the outline that
11 was developed by the OCCB with Volunteer Canada was broader
12 in its way of screening and of accompanying volunteers.
13 And so eventually our policy was amended to reflect that.

14 **MR. ENGELMANN:** Did it go up to that higher
15 level of vulnerable persons?

16 **BISHOP DUROCHER:** No. I must admit
17 yesterday, as I was listening to the testimony, it's the
18 first time I've heard of that expression.

19 **MR. ENGELMANN:** All right.

20 **BISHOP DUROCHER:** It's more a question of
21 including screening within good volunteer management
22 practice. Volunteer management is a field -- is a
23 relatively new field of study and institutions such as the
24 Catholic Church, which depend a great deal on volunteers,
25 are slowly becoming cognisant of this field of study and

1 integrating the research that's being done in that in
2 volunteer management. And so that broader -- the broader
3 context of volunteer management is the one in which
4 screening is being done now.

5 **MR. ENGELMANN:** And you have an example of
6 this policy from January 1st of 2002 at Tab 54, and these
7 are the requirements for people who wish to volunteer for
8 the Diocese?

9 **BISHOP DUROCHER:** No, pardon. These were
10 the -- this was the first policy, the first policy of the
11 Diocese.

12 **MR. ENGELMANN:** Yes.

13 **BISHOP DUROCHER:** In 2002, they put out
14 these forms that were to be filled out with some directions
15 given.

16 **MR. ENGELMANN:** Yes.

17 **BISHOP DUROCHER:** So this corresponds to the
18 first policy. The new policy is at Tab 55, and I didn't
19 provide you with the volunteer information kit.

20 **MR. ENGELMANN:** But it sets out the -- we
21 don't have the form itself, but it sets out the policy in
22 detail.

23 **BISHOP DUROCHER:** Exactly.

24 **MR. ENGELMANN:** All right. And so in
25 addition to police record checks, you have reference

1 checks. You have an interview process.

2 **BISHOP DUROCHER:** Exactly.

3 **MR. ENGELMANN:** All right. This policy is
4 the policy that's now in place for volunteers?

5 **BISHOP DUROCHER:** That's right. The other
6 thing to be noted is we've distinguished between high risk,
7 medium risk and low risk volunteer positions and one of the
8 -- and we've put into place in each parish a parish
9 leadership team, a team of four lay people who are working
10 with their parish priest in the implementation of this
11 policy. And one of the things that this team does is
12 identify high risk policies -- high risk positions and see
13 how the risk can be lowered so that maybe instead of
14 screening for a high risk position, we actually change
15 position, so it becomes a medium risk or a low risk
16 position.

17 **MR. ENGELMANN:** Can you give us a sense as
18 to what a high risk position might be?

19 **BISHOP DUROCHER:** Well, a high risk position
20 would be, for example, doing Sunday school with children.
21 That would be automatically a high risk position, and one
22 way of lowering the risk would be to make sure that there
23 is always two or three adults present at the same time
24 during the Sunday school proceedings. A simple example.

25 **MR. ENGELMANN:** Okay.

1 Bishop Durocher, those are all of my
2 questions. Thank you very much for your evidence and there
3 will be some lawyers who will have questions for you and
4 hopefully they'll identify themselves and just let you know
5 who they're representing. Thanks again.

6 **BISHOP DUROCHER:** Thank you.

7 **THE COMMISSIONER:** Mr. Lee? I'm sorry?

8 Oh, I'm sorry. Mr. Manson, yes. I'm sorry.

9 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

10 **MANSON:**

11 **MR. MANSON:** Bishop Durocher, it will just
12 take me a second to get myself organized.

13 **THE COMMISSIONER:** Yes, okay, of course.

14 (SHORT PAUSE/COURTE PAUSE)

15 **MR. MANSON:** Thank you. Bishop, my name is
16 Allan Manson and I'm one of the counsel for the Citizens
17 for Community Renewal.

18 Maybe we could start right where you left
19 off with screening and, particularly, I'd like to go back to
20 the audit document at Tab 47.

21 You went through with Mr. Engelmann a number
22 of changes, amendments to your policy that were made after
23 the audit document.

24 If we turn to page 16 and 17, we'll see the
25 list of recommendations that the auditors made.

1 Recommendation "F" is on the next page, please.

2 "It is recommended that any employee
3 who has a role which falls within the
4 definition of a high level volunteer
5 should be subject to a Police check and
6 detailed employment application
7 process."

8 They say you do have a written requirement
9 that all volunteers be checked, but you do not have a
10 protocol in place to screen any lay employees who work in
11 the chancery or at the parish level. Is that still correct
12 that you do not have a policy?

13 **BISHOP DUROCHER:** That's correct, yes.

14 **MR. MANSON:** Are you working on one?

15 **BISHOP DUROCHER:** Yes. I can say that the
16 employees that we have working either at the chancery or at
17 the parish levels, we do not have employees that are
18 dealing with children or vulnerable people. They are staff
19 that deal with administrative or caretaker positions. So
20 there's, how can I say, less of an urgency to get to that,
21 but I intend to get to it, yes.

22 **MR. MANSON:** Thank you.

23 What about recommendations "G" and "H"? I
24 realize that these emanate from 2005 and that you've got a
25 number of things on your mind.

1 "It is recommended a protocol be
2 established to audit all facets of the
3 volunteer management process..."

4 **BISHOP DUROCHER:** Yes. So after the audit,
5 we didn't establish a protocol, but I directed the staff
6 that is responsible for the implementation after this audit
7 was done to go to all the parishes and meet with the parish
8 leadership teams to do an audit at the parish level with
9 them. So the process is undertaken; we just haven't
10 written up the process.

11 **MR. MANSON:** And can we move onto "H". I
12 think that's the last one that hasn't been addressed.

13 "The Diocese create a written policy
14 which requires the Bishop or religious
15 superior to disclose all information
16 concerning sexual misconduct of any
17 priest seeking to be transferred to the
18 Diocese or seeking faculties in the
19 Diocese."

20 **BISHOP DUROCHER:** It's a practice. I must
21 admit, I find it a bit funny writing a policy for myself,
22 you know, decreeing that I will do this. I'm doing it.
23 There are no priests coming into the Diocese or leaving the
24 Diocese without those stringent checks being made right
25 now.

1 **MR. MANSON:** I suppose this really gets to
2 the question of protocols and people. Good protocols and
3 incompetent people don't get you anywhere either, but the
4 argument is you may not always be the Bishop.

5 **BISHOP DUROCHER:** That's true. And you're
6 correct, these things need to be taken care of.

7 **MR. MANSON:** Thank you, Bishop.
8 Can we look at Tab 44, please?

9 **THE COMMISSIONER:** Then again, if you were
10 to leave, a bishop coming in could take the policies and
11 disregard them. He's not bound for so doing?

12 **BISHOP DUROCHER:** You're absolutely right.
13 The one strength here is the public outcry that would
14 happen if a bishop did that when he did come in.

15 I really believe that, not only in this
16 Diocese but in all dioceses, policies are being set up in
17 such a way that incoming bishops will not be able to touch
18 them.

19 **MR. MANSON:** Can we turn to page 11? This
20 is the ---

21 **THE COMMISSIONER:** I'm sorry; what tab
22 again?

23 **MR. MANSON:** It's Tab 44.

24 **THE COMMISSIONER:** Right.

25 **MR. MANSON:** It's the report of the ad hoc

1 committee.

2 **THE COMMISSIONER:** M'hm.

3 **MR. MANSON:** I'm particularly interested in
4 the framework of a plan for safeguarding against sexual
5 abuse and sexual assault.

6 **THE COMMISSIONER:** So page 11?

7 **MR. MANSON:** Yes.

8 Now, Bishop Durocher, I know during some of
9 the meetings of this committee you had a presentation by
10 Father MacNeil on international developments, and one of
11 the things he talked about was both the Charter and the
12 norms developed by the United States Conference of Catholic
13 Bishops.

14 Do you have some familiarity with those from
15 that session with Father MacNeil?

16 **BISHOP DUROCHER:** The familiarity I have is
17 their existence.

18 **MR. MANSON:** Well, let me just suggest to
19 you that Article 12 is about creating a safe environment
20 for children. Do you recall that?

21 **BISHOP DUROCHER:** Yes.

22 **MR. MANSON:** And in fact, if you don't mind,
23 I'll read the first little bit of Article 12 just so that
24 we know we're talking about the same thing. This is the
25 Charter from the U.S. This was father MacNeil when he met

1 with the -- it's not in the documents anywhere so if you
2 don't recognize it, please just stop me. I just want to
3 make sure that we're talking about the same thing.

4 **BISHOP DUROCHER:** May I ask what document
5 you're reading from?

6 **MR. MANSON:** I was just going to make
7 reference to Article 12. It's referred to at page 15 in
8 the report which is Exhibit 59. At page 51 ---

9 **THE COMMISSIONER:** Is it an exhibit?

10 **THE REGISTRAR:** Not yet.

11 **THE COMMISSIONER:** No, not yet.

12 **MR. MANSON:** Could we mark this as an
13 exhibit, Mr. Commissioner?

14 **THE COMMISSIONER:** Okay. Is it number 59?
15 I just ---

16 **MR. MANSON:** It was distributed last week.

17 **THE COMMISSIONER:** Oh, it was. Okay. And
18 it's entitled "The Report on the Crisis in the Catholic
19 Church in the United States", February 27th, 2004, Exhibit
20 59.

21 --- **EXHIBIT NO./PIÈCE No. P-59:**

22 Report on the Crisis in the Catholic
23 Church in the United States - The
24 National Review for the Protection of
25 Children and Young People Established

1 by the United States Conference of
2 Catholic Bishops

3 **MR. MANSON:** And you see at page 51 it says
4 "Article 12 directs dioceses" -- now I'm stumbling. It's
5 dioceses.

6 **BISHOP DUROCHER:** Dioceses.

7 **MR. MANSON:** Dioceses. Page 51, to
8 establish "safe environment programs".

9 **THE COMMISSIONER:** Wait a minute. Page 51?

10 **MR. MANSON:** Page 51 of Exhibit 59.

11 **THE COMMISSIONER:** Well, now I'm a little
12 lost. At page 51?

13 **MR. MANSON:** Yes, 51 of the report, which is
14 57 of the file. Sorry. You've got it up. It's up on the
15 screen, Mr. Commissioner.

16 **THE COMMISSIONER:** Okay.

17 **MR. MANSON:** Articles 12 through 17 are
18 intended to protect the faithful in the future. Article 12
19 directs dioceses to establish safe environment programs.

20 My question is when we go back to the ad hoc
21 committee report, which is at Tab 44 at page 11, is this
22 framework your committee's view of developing a safe
23 environment for children; the framework of a plan for
24 safeguarding against sexual abuse and sexual assault?

25 **BISHOP DUROCHER:** Well, the first thing I'd

1 like to point out is this American document is from 2004,
2 which was two years after the working of this committee.

3 **MR. MANSON:** Yes.

4 **BISHOP DUROCHER:** So I have trouble in
5 seeing what the relevance of this document is to the work
6 of the committee.

7 **MR. MANSON:** Well, you were aware of the
8 Charter.

9 **BISHOP DUROCHER:** Of the Charter, yes.

10 **MR. MANSON:** And the Charter was discussed
11 with the committee and ---

12 **BISHOP DUROCHER:** Yes.

13 **MR. MANSON:** --- this was Article 12 of the
14 Charter ---

15 **BISHOP DUROCHER:** Yes.

16 **MR. MANSON:** --- explaining the importance
17 of creating a safe environment.

18 **BISHOP DUROCHER:** Yes.

19 **MR. MANSON:** So my question is, is your
20 material in section 3 of this report the committee's effort
21 to build a safe environment?

22 **BISHOP DUROCHER:** Yes.

23 **MR. MANSON:** Has this committee been struck?

24 **BISHOP DUROCHER:** The heart of the
25 recommendations here is the screening initiative, and this,

1 as I say, instead of forming a committee we hired two
2 people to work at that. So we have two people who are
3 working at creating safer environments through a screening
4 initiative.

5 **MR. MANSON:** Can we just scroll this down
6 for a second, please?

7 I would suggest to you that even in your own
8 document, the idea of a safe environment is more than just
9 screening.

10 **BISHOP DUROCHER:** Yes.

11 **MR. MANSON:** And there ought to be -- at
12 some point -- and again, I know you have a busy agenda with
13 a lot of other priorities, but creating a safe environment
14 for children, for example, would include training and
15 education about child psychology, child sexuality, those
16 aspects of human life necessary to put more focus on the
17 child.

18 **BISHOP DUROCHER:** So for example, you're
19 suggesting that we have workshops on child psychology with
20 the priests?

21 **MR. MANSON:** Perhaps.

22 **BISHOP DUROCHER:** That's a possibility.

23 I can say that, yes, it's broader than the
24 question of screening. One of the things that was
25 suggested was that -- by the committee -- I remember this

1 orally at any rate -- is that we work towards what some
2 people call childproofing, you know.

3 **MR. MANSON:** Yes.

4 **BISHOP DUROCHER:** And so what I did
5 following that was to communicate with our two Catholic
6 school boards and discovered that they're already doing
7 that within the Catholic school community.

8 But on the other hand, we've set up a new
9 process of training for our altar servers who generally are
10 children or young teenagers, and we've included elements of
11 child proofing within the formation program for our altar
12 servers. So that goes beyond -- that's an example of
13 something going beyond screening.

14 Now, obviously more can be done, I agree,
15 and we'll keep on working on that.

16 **MR. MANSON:** I'm just suggesting that if we
17 go back and look through the history of this particular
18 issue two or three decades ago, it's quite obvious in most
19 of the documents it's the victim that's forgotten.

20 **BISHOP DUROCHER:** Yes.

21 **MR. MANSON:** And then that has changed
22 progressively over time. Your own documents, for example,
23 have changed quite dramatically over time.

24 By the same token, if we move outside of the
25 context of allegations of abuse but look at the general

1 environment ---

2 **BISHOP DUROCHER:** That's right.

3 **MR. MANSON:** --- I think that's what the
4 U.S. Conference of Catholic Bishops are talking about.

5 **BISHOP DUROCHER:** Yes, and I would agree
6 with that.

7 **MR. MANSON:** Thank you.

8 I think those are my only questions that
9 came from the last few minutes of the examination. So I'll
10 try to go back to my order.

11 I guess now that's I've introduced this
12 Exhibit 59 I should just generally -- I'm going to refer to
13 it later in one or two small ways, but it is a 2004
14 document.

15 Is there any reason that relates to the
16 structure, the history of the Church in Canada that would
17 make some of the general views expressed in this American
18 document irrelevant? Anything that you could point out?

19 **BISHOP DUROCHER:** Well, I would say the
20 history of the Church in Canada is quite different from the
21 history of the Church in the United States. I would say
22 that there is a -- if you're asking me my opinion here I
23 would have to read the report and compare it to what
24 they're basing themselves on. I have no idea what is in
25 this report.

1 **MR. MANSON:** But you have no objection to me
2 putting ideas from the report to you and asking your views
3 of them?

4 **BISHOP DUROCHER:** Yes, recognizing the fact
5 that I am not an expert in this field.

6 **MR. MANSON:** Absolutely. No, just putting
7 them to you as a bishop.

8 **BISHOP DUROCHER:** Sure.

9 **MR. MANSON:** Thank you. We'll come back to
10 that in a few minutes.

11 I wanted to ask you some questions about
12 religious orders, and I apologize in advance. I'm not
13 Catholic and a lot of the language is foreign to me and so
14 if I use some of the language inappropriately, please just
15 correct me.

16 When we're talking about religious orders, I
17 take it we're talking about priests or other religious
18 officials who are not working in a diocese, but this was
19 part of the emanation of them, the monasteries that you
20 talked about?

21 **BISHOP DUROCHER:** Historically, that's
22 correct.

23 **MR. MANSON:** Now, in general, is it fair to
24 say that a priest or other religious official working in a
25 diocese is there with the bishop's permission?

1 **BISHOP DUROCHER:** Implicit permission, I
2 guess you could say. For example, if a religious order
3 sends a priest to work with -- I take the example of the
4 Legionaries of Christ here and their novitiate, if they
5 were in Summerstown, if they send a priest here to work
6 with the novices they do not have to advise me if the only
7 work he's doing is with their novices. If that priest
8 wants to replace or to help out in ministry in the Diocese,
9 then I have to give that priest faculties.

10 **MR. MANSON:** Leaving that aside, if you were
11 unhappy about the work a religious order was doing in your
12 Diocese, do you have the authority to ask them to leave?

13 **BISHOP DUROCHER:** If they are here on an
14 understanding with me, I can finish the understanding.
15 There's no doubt about that. For example, if I would
16 entrust a parish to the care of a religious order, I could
17 put an end to that understanding and then they would have
18 to leave.

19 I must admit that it is unclear for me, for
20 example, if I have the power to ask the Legionaries of
21 Christ to close their novitiate in Cornwall. I don't know.

22 **MR. MANSON:** If we move from the order to
23 the specific priests -- or I notice the word religious is
24 used as a noun often.

25 **BISHOP DUROCHER:** Yes.

1 **MR. MANSON:** And that would include nuns and

2 ---

3 **BISHOP DUROCHER:** And brothers.

4 **MR. MANSON:** --- brothers.

5 Within your own Diocese, would you have any
6 ability under canon law to commence disciplinary
7 proceedings in respect of one of those people for conduct
8 within your Diocese?

9 **BISHOP DUROCHER:** It's an area of canon law
10 in which I'm not specialized. My impression is that
11 normally it is the legitimate superior of the person who
12 undertakes canonical proceedings against a candidate.
13 But this is an area -- the relationship, the specific
14 relationship between religious orders and bishops as you
15 get into the detail of it, is a bit beyond my competence.
16 I'm sorry.

17 **MR. MANSON:** I take it, since 2002 you
18 haven't been in a position where you've taken any steps
19 with respect to a member of a religious order?

20 **BISHOP DUROCHER:** As I say, we only have one
21 religious order priest working in the parish and the other
22 members of the religious orders -- I'm talking about
23 priests -- are the Legionaries of Christ. The other
24 religious here in the Diocese are brothers and sisters and,
25 except for one, they are all retired, living in their

1 homes.

2 **MR. MANSON:** I have a question to ask you
3 about schools. I just have to find my reference for a
4 second. Does the bishop have any role in approving senior
5 officials of school boards?

6 **BISHOP DUROCHER:** No.

7 **MR. MANSON:** Have bishops ever had that
8 role?

9 **BISHOP DUROCHER:** I would imagine that
10 bishops would have had influence in the past.

11 **MR. MANSON:** The reason I'm asking you is if
12 we could turn to Tab 24, which is the meeting of the
13 Council of Priests, May 19th, 1992, if we can just stop
14 there. A letter was sent -- number three;

15 "A letter was sent [by Réjean Lebrun]
16 to the Board. No response was
17 received. The letter was sent to one
18 Board member. She asked the French
19 Board about it. The policy of the
20 Board states that if a letter..."

21 -- this is the right paragraph --

22 "...if a letter is not sent to the
23 Director of Education, then no response
24 is viewed necessary."

25 I will skip the next part.

1 "It was noted that other Bishops in Ontario are
2 consulted when hiring a new Director of
3 Education."

4 And apparently the bishop hadn't been
5 consulted and there were apologies flying back and forth, but
6 I take it that at one point this was a practice, an informal
7 practice?

8 **BISHOP DUROCHER:** I would imagine it was a
9 politeness, you know, but the bishop has no authority over
10 the functioning of a Catholic school board.

11 **THE COMMISSIONER:** Maybe not anymore but did
12 we not read some place or hear some place that someone who
13 is running as a trustee would get the endorsement of the
14 parish priest or something?

15 **MR. MANSON:** Yes, that was contained in the
16 Affidavit of Professor Choquette that we filed when we were
17 examining the question.

18 **THE COMMISSIONER:** The history of the church
19 and its influence on the community.

20 **MR. MANSON:** Yes.

21 **BISHOP DUROCHER:** Possibly may I suggest
22 that that would be before the 1969 Act of Education. Since
23 I have been involved in education going back to that date,
24 there certainly was no -- there is no power.

25 **MR. MANSON:** But a polite mode of

1 communication would obviously have some influence.

2 **BISHOP DUROCHER:** Sure.

3 **MR. MANSON:** I want to ask some questions
4 generally about the disciplinary powers of bishops just to
5 clarify some of the things that you've already talked about
6 with Mr. Engelmann.

7 So if we can look at this for a minute just
8 from the perspective of any bishop; is it fair to say that
9 any bishop, if apprised of an allegation of sexual or
10 physical abuse of a child, could immediately -- by a priest
11 -- could immediately suspend that priest from diocesan
12 duties? By "any bishop", I mean the bishop of the diocese.

13 **BISHOP DUROCHER:** Could you repeat that?

14 **MR. MANSON:** Yes. What I am getting at is
15 if a bishop learns of an allegation of sexual or physical
16 abuse of a child by a priest, does that bishop have the
17 power to suspend that priest from diocesan duties pending
18 an inquiry or an investigation?

19 **BISHOP DUROCHER:** A suspension is a
20 canonical penalty. A canonical penalty is imposed once a
21 crime has been verified or sustained.

22 **MR. MANSON:** I used the wrong term then.
23 Could the bishop compel that priest to take an
24 administrative leave?

25 **BISHOP DUROCHER:** Yes.

1 **MR. MANSON:** If the allegation was proven
2 either in court or through an admission, you talked a while
3 ago about the process of -- I think it's called
4 "Laicization".

5 **BISHOP DUROCHER:** That's the popular term
6 for it, yes.

7 **THE COMMISSIONER:** I wouldn't want to know
8 what the unpopular term is!

9 **BISHOP DUROCHER:** The dismissal from the
10 clerical state.

11 **MR. MANSON:** Ah! That's much easier to
12 pronounce!

13 **THE COMMISSIONER:** Yes, yes.

14 **MR. MANSON:** Short of dismissal from the
15 clerical state, we have this concept of excardination.
16 Correct?

17 **BISHOP DUROCHER:** No, I think people are
18 getting this mixed up. Excardination ---

19 **MR. MANSON:** I'm certainly getting it mixed
20 up.

21 **BISHOP DUROCHER:** Yes.

22 **MR. MANSON:** I don't know about people.

23 **BISHOP DUROCHER:** Excardination is a process
24 through which a priest passes from one jurisdiction to
25 another jurisdiction; from one bishop to another bishop or

1 from a bishop to a religious order or from a religious
2 order to a bishop. Excardination has nothing to do with
3 penalties or with disciplinary processes.

4 **THE COMMISSIONER:** It's just a transfer.

5 **BISHOP DUROCHER:** It's a transfer. That's
6 basically what it is. It's a transfer.

7 **MR. MANSON:** And a transfer could not be the
8 result of a finding that an offence had been committed?

9 **BISHOP DUROCHER:** Not unless, not unless, in
10 my mind, at any rate, the transfer, as I was saying
11 earlier, was motivated by some aspect of the receiving
12 diocese or religious order, which would -- how can you say
13 -- carry some possibility of better care, of better
14 "encadrement".

15 **THE COMMISSIONER:** Does anybody have a
16 headset on? We may need interpreters. Could not control
17 but ---

18 **BISHOP DUROCHER:** Yes, it's something like
19 control, you know, to ---

20 **THE COMMISSIONER:** Put limitations on and
21 guide the priest who has difficulties. How's that?

22 **BISHOP DUROCHER:** Yes.

23 I mean, if it was seen as a part of a
24 process of ---

25 **THE COMMISSIONER:** Rehabilitation.

1 **BISHOP DUROCHER:** --- of rehabilitation,
2 that's the right word. If it was part of a process, then
3 excardination and incardination in a new area could be part
4 of that process.

5 **MR. MANSON:** Well, I think, Bishop Durocher,
6 I do want to move for a minute to Exhibit 59, the Report on
7 the Crisis and the Catholic Church in the United States. I
8 want to make reference to some findings of this National
9 Review Board appointed by the United States Conference of
10 Catholic Bishops and it's at page 92. Of course, these are
11 findings about the United States, but there's also some
12 serious discussion in this document about Canon Law that I
13 am going to get to in a minute, but if we look oh, about
14 the fifth line:

15 "Aspects of the failure to respond
16 properly to sexual abuse of minors by
17 priests included:

- 18 1. inadequately dealing with the victims
19 of clergy sexual abuse both
20 pastorally and legally;
21 2. allowing offending priests to remain
22 in positions of risk;
23 3. transferring offending priests to new
24 parishes or other diocese without
25 informing others of their history;

1 4. failing to report instances of
2 criminal conduct by priests to
3 secular law enforcement authorities;
4 5. declining to take steps to laicize
5 priests who clearly had violated
6 Canon Law."

7 Do you have any reason to doubt that these
8 are accurate findings with respect to the experience in the
9 United States?

10 **BISHOP DUROCHER:** From what I have been
11 reading, it corresponds to it, yes.

12 **MR. MANSON:** And in many ways, it is
13 comparable to the background that was discussed in From
14 Pain to Hope. Would you not agree?

15 **BISHOP DUROCHER:** What is it exactly that
16 you are asking me to say?

17 (LAUGHTER/RIRE)

18 **MR. SHERRIFF-SCOTT:** He wants you to adopt
19 the whole paragraph.

20 **BISHOP DUROCHER:** Does this correspond to
21 the Canadian situation? Is this what you are asking me?

22 **MR. MANSON:** Yes. In general, is there any
23 particular finding where you would say, "It does not apply
24 to what we've experienced over the past four or five
25 decades in Canada"?

1 **BISHOP DUROCHER:** My experience is that the
2 situation of Canada is not like the situation of the United
3 States. There are signs of a deep crisis in the United
4 States, which is not the same as in Canada.

5 I'm not saying there were not failures of
6 the system in Canada. I think Mount Cashel and St. John's,
7 the Winter Commission, have shown that, but I think they
8 were localized situations. So this is where I am having
9 trouble saying this applies across the board in Canada.

10 **MR. MANSON:** I accept that.

11 **BISHOP DUROCHER:** And I would have great
12 difficulty saying it applies to Alexandria-Cornwall.

13 **MR. MANSON:** And I am not talking about
14 Alexandria-Cornwall, but what I'm suggesting is that these
15 five problems ---

16 **BISHOP DUROCHER:** Yes.

17 **MR. MANSON:** --- not necessarily on a
18 national scale and not necessarily on a crisis scale, but
19 we have seen examples of these five problems in Canada.

20 **BISHOP DUROCHER:** Yes.

21 **MR. MANSON:** And one of them is transferring
22 offending priests. Now I understand you've explained your
23 view.

24 **BISHOP DUROCHER:** Yes.

25 **MR. MANSON:** My point is simply this has

1 happened in Canada.

2 **BISHOP DUROCHER:** We know of the case of
3 *Bennett* in Newfoundland, yes.

4 **MR. MANSON:** Has it ever happened in this
5 Diocese?

6 **BISHOP DUROCHER:** I am not aware of it, no.

7 **MR. MANSON:** Thank you.

8 I want to go on now that we are looking at
9 Exhibit 59, to give the impression that there is some
10 organization to this exercise on my part, if we could go to
11 page 102.

12 **THE COMMISSIONER:** What I could do, ask you
13 though, we did start close to 1:30 and it is nearing 3:00.
14 So when you feel you want to take a short break, just let
15 me know at an appropriate.

16 **MR. MANSON:** Thank you. Maybe we'll just go
17 to this part on Canon Law.

18 I have to say, Bishop Durocher, I came to
19 this completely ignorant of Canon Law, and I was very
20 surprised by what I read here, and I want to know your
21 views because these comments are general comments but, of
22 course, they do emanate from the American context.

23 Number one, beginning of that paragraph:

24 "Canon Law has proven to be an
25 inadequate method of dealing with cases

1 of sexual abuse of minors for many
2 reasons."

3 And there are three reasons given. And I
4 would like you to comment on them from your experience in
5 Canada.

6 "First, the Canonical Tribunals and
7 Dioceses simply did not have the
8 expertise to handle involuntary
9 laicisation cases."

10 Would that comment apply to the Canadian
11 context?

12 **BISHOP DUROCHER:** As far as I know, the
13 Canadian scene tribunals did not deal -- the tribunal
14 process has not been used for laicization.

15 **MR. MANSON:** So you'd agree that to invoke
16 the tribunal process would require relying on neophytes?

17 **BISHOP DUROCHER:** Yes. I would agree -- let
18 me just make one thing clear. "Canon Law has proven to be
19 an inadequate method of dealing with cases of sexual abuse
20 of minors for many reasons." I would suggest that as a
21 general rule that would be true. Canon Law was not
22 written to deal with those situations. It is a general
23 structure, and so it needs to be specified. And that is
24 why the Congregation for the Doctrine of the Faith, for
25 example, has added new rules to deal with those issues.

1 And new structures have been put into place; for example,
2 the administrative removal by the Pope of a priest who has
3 been proven to be a sexual offender. Those are new
4 developments in the field of Canon Law because Canon Law
5 couldn't address those issues before.

6 **MR. MANSON:** And when did that development
7 take place?

8 **BISHOP DUROCHER:** In 1992, I believe, was
9 the Congregation of the Doctrine of the Faith's document
10 opening that possibility.

11 **MR. MANSON:** Could we turn the page over to
12 page 103, Bishop.

13 The second factor:

14 "The Canon Law process for dealing with
15 sexual abuse cases was impeded further
16 by the concept of imputability."

17 Are you familiar with that concept?

18 **BISHOP DUROCHER:** Yes.

19 **MR. MANSON:**

20 "Which provided that the penalty of
21 laicization could not be handed down if
22 the priest or his advocate were able to
23 show that the priest was not completely
24 responsible for his actions because of
25 an illness or some other psychological

1 condition."

2 Is that an accurate description of the role
3 of imputability?

4 **BISHOP DUROCHER:** I would say it's similar
5 from what I read into civil law where, you know, the
6 faculties are impinged by conditions that diminish the
7 imputability of the person and the criminal nature of the
8 act.

9 **MR. MANSON:** Well, I would suggest to you
10 though, Bishop, that if we go back and look through the
11 documents from this Diocese, aside from other places, we'll
12 see that there does seem to have been an almost complete
13 assumption that if you've committed a sexual assault on a
14 child, you're sexually disturbed; you're psychologically
15 disturbed; you're a pedophile; we can diagnose you. And we
16 see that throughout some of the discussions, especially in
17 the early -- the '80s and the '90s.

18 Wouldn't that suggest that imputability
19 would create an almost complete bar to laicization, if that
20 view was maintained?

21 **BISHOP DUROCHER:** I guess you could argue
22 that, yeah.

23 **MR. MANSON:** And you would agree that we do
24 see in a lot -- especially in the older discussions this
25 almost complete assumption that you must be -- there must

1 be a diagnosable disorder behind this kind of behaviour.

2 **BISHOP DUROCHER:** You are asking me to make
3 general statements about policy in history that I just do
4 not feel able to respond to. I think you would have to
5 have somebody like Mr. Morrisey or another specialist in
6 Canon Law and in church history to answer that kind of
7 question.

8 **MR. MANSON:** Well, I accept that, and I
9 appreciate that qualification.

10 Can you look at page 117 for a moment? The
11 bottom paragraph seems to speak to this concept of what
12 I've referred to as the assumption of disorder.

13 I'm quoting now.

14 "In some, by viewing sexual abuse with
15 minors primarily as an issue of psycho-
16 social identity and not primarily as a
17 crime and grave sin, bishops fail to
18 fulfil their responsibilities to the
19 member public and members of the
20 church.

21 Although psychiatry may play a roll in
22 diagnosis of sexual disorders and in
23 treatment, some church leaders
24 appeared, as one bishop put it, to have
25 replaced theology with psychiatry and

1 to have shown, as another bishop
2 stated, a much greater willingness to
3 accept the authority of psychologists
4 and psychiatrists than their science or
5 art justified."

6 I'm suggesting that what they're speaking of
7 is -- and I'm not suggesting any malicious motives, but
8 there was a general attitude that sexual offence against
9 minor equals disorder therefore you're into imputability.

10 **THE COMMISSIONER:** Hang just a second.

11 **MR. SHERRIFF-SCOTT:** I'm worried that we're
12 treating the Bishop as a context witness. Father Loftus
13 will be here who will testify about all of the dimensions
14 of these issues, treatment, et cetera. We're here for the
15 Bishop to testify about the Diocese protocols as opposed to
16 general considerations, and I'm just wondering if we're
17 getting too far a field.

18 **THE COMMISSIONER:** Mr. Manson.

19 **MR. MANSON:** I think the Bishop does have
20 background in Canon Law, and this is what we're talking
21 about now, this notion of imputability as an obstacle to
22 laicization. But I have other questions to ask. I'm
23 prepared to move on. Maybe we could take a break now.

24 **THE COMMISSIONER:** Thank you.

25 **MR. MANSON:** Thank you.

1 **THE COMMISSIONER:** We'll take a short break.

2 Let me know -- could we canvas folks to see
3 how our timeframe is so if we're going to stay late we can
4 advise family, and friends, and loved ones.

5 **THE REGISTRAR:** Order; all rise. À l'ordre;
6 veuillez vous lever.

7 The hearing will reconvene at 3:15.

8 --- Upon recessing at 3:06 p.m./

9 L'audience est suspendue à 15h06

10 --- Upon resuming at 3:23 p.m./

11 L'audience est reprise à 15h23

12 **THE REGISTRAR:** This hearing of the Cornwall
13 Public Inquiry is now in session. Please be seated.
14 Veuillez vous asseoir.

15 **BISHOP PAUL-ANDRÉ DUROCHER, Resumed/Sous le même serment:**

16 --- **CROSS-EXAMINATION BY/CONTRE INTERROGATOIRE PAR MR.**

17 **MANSON (cont'd/suite):**

18 **MR. MANSON:** Bishop Durocher, if I can just
19 quickly go back to some of the issues that we were talking
20 about before the break. Earlier when Mr. Engelmann was
21 asking you questions, you mentioned the affair of Father
22 Deslaurier.

23 **BISHOP DUROCHER:** That's correct.

24 **MR. MANSON:** Did you want to say anything
25 about Father Deslaurier and transfers?

1 **BISHOP DUROCHER:** Yes. I'm sorry, I had
2 forgotten about that and it came back to me during the
3 break.

4 Father Deslaurier is one case where a priest
5 was excardinated from the Diocese and incardinated into
6 another diocese following not only an allegation but a
7 recognition of guilt of sexual abuse of teenagers.

8 In that case, the sentence -- part of the
9 sentencing was that he was -- I don't know what the correct
10 expression was, but given into the care of the Bishop of
11 the Diocese of Gatineau-Hull at the time, and so he moved
12 to the Diocese of Gatineau-Hull. Given that it was part of
13 his sentencing, he asked for excardination from this
14 Diocese and an incardination into the Diocese of Hull, and
15 obviously the Bishop of the Diocese of Gatineau-Hull was
16 completely aware of the situation in which he was receiving
17 Father Deslaurier into his Diocese.

18 So it was one case following a court order
19 where this happened.

20 **MR. MANSON:** Thank you, Bishop.

21 **BISHOP DUROCHER:** You're welcome.

22 **MR. MANSON:** I also want to look quickly at
23 Tab 24. I found one of the examples I mentioned earlier.
24 If we can turn to Tab 24 at page 3, my friend Mr. Engelmann
25 already referred to this, but it's, I think, a good example

1 of the overly therapeutic or diagnostic view of sexual
2 offences against children.

3 Number 9, the rehabilitation of priests:

4 "In the case of pedophilia, if it's one
5 or two incidents, it can be helped or
6 cured. If it's more, it is a habit
7 which is incurable."

8 I would suggest that this comment from a
9 meeting of the Council of Priests in 1992 is reflective of
10 that overly therapeutic emphasis.

11 **BISHOP DUROCHER:** Knowing my predecessor
12 Bishop LaRocque, who was Bishop here for 28 years, I can
13 tell you absolutely that that was not part of his mindset.
14 Bishop LaRocque was very concerned with the whole notion of
15 sinfulness and of correct moral conduct. And it took him,
16 I would say, a while to recognize that there are indeed
17 psychosexual issues, psychotherapeutic issues and
18 pathologies involved here. But to say that, for example,
19 my predecessor would have had an overly therapeutic model
20 would be to misrepresent his stance on these issues
21 completely.

22 **MR. MANSON:** I'm only raising that because
23 of my questions about imputability.

24 **BISHOP DUROCHER:** Yes.

25 **MR. MANSON:** I want to go back to one other

1 comment you made about a quantitative difference between
2 Canada and the United States. And I want to point out to
3 you that if you look at this Exhibit 59, you will see that
4 the U.S. Conference of Catholic Bishops, through this
5 review board, arranged a very sophisticated empirical
6 survey through the John. J. School of Criminal Justice,
7 part of the University of New York.

8 Do you know if the Canadian Conference or
9 the Ontario Conference has embarked on any kind of survey
10 like that? But by sophisticated and extensive I mean it
11 went from 1950 to 2002. They contacted every diocese. Not
12 all participated. Most did. And they participated
13 anonymously and provided anonymous data.

14 **BISHOP DUROCHER:** I know that as part of its
15 review of From Pain to Hope there has been work done by the
16 CCCB that is similar. Not as extensive but similar in
17 scope.

18 **MR. MANSON:** And has that data been
19 published yet?

20 **BISHOP DUROCHER:** No, it has not.

21 **MR. MANSON:** So it may well be that we'll
22 learn more about this relationship between Canada and the
23 United States after we see that data?

24 **BISHOP DUROCHER:** It could.

25 **MR. MANSON:** Can we move to From Pain to

1 Hope. Let's talk about that. This is Tab 46 -- 26. Thank
2 you.

3 MR. ENGELMANN: Volume 2.

4 THE COMMISSIONER: Thank you.

5 MR. MANSON: And I want to first move to
6 page 23. If we can scroll down? Yes, the paragraph that
7 starts -- no, you have to scroll down some more. Sorry.
8 No. I guess we're up. Slow down. Can we come down?

9 Mr. Commissioner and Bishop Durocher, if I
10 can just have a second to look at my printed out copy.
11 I've obviously got the wrong -- I've got it marked here.
12 It's page 22. I apologize. There, that paragraph:

13 "At the time, however, the public was
14 not sufficiently conscious of an
15 essential element in the problem of
16 abuse. The ideal breeding ground for
17 the development and repetition of child
18 sexual abuse is a general conspiracy of
19 silence motivated by the fear of
20 scandal and of major repercussions for
21 the institutions directly or indirectly
22 concerned."

23 I would suggest to you, Bishop Durocher,
24 that it's this finding that gives meaning to the importance
25 of transparency in dealing with this particular issue.

1 Would you agree?

2 **BISHOP DUROCHER:** Yes.

3 **MR. MANSON:** And as a result, I was a little
4 surprised earlier to hear about secret archives, and I have
5 a question to ask you about that.

6 You gave a very clear example of a situation
7 where a bishop might create a secret archive, the
8 retrospective validation of a marriage. But let's assume
9 that there was a secret archive in a diocese. Obviously
10 from your testimony earlier this is countenance by Canon
11 Law.

12 **BISHOP DUROCHER:** Yes.

13 **MR. MANSON:** What happens to that secret
14 archive? By that I mean does Canon Law deal with its
15 retention? Does it stay always within the Diocese?

16 **BISHOP DUROCHER:** I must admit, it's an area
17 of Canon Law in which I am not a specialist. As I told
18 you, there is no secret archives in the Diocese.

19 **MR. MANSON:** Yes.

20 **BISHOP DUROCHER:** So I've had no opportunity
21 to study the issue.

22 **MR. MANSON:** I'm just wondering whether --
23 obviously this would be under the control of the Bishop ---

24 **BISHOP DUROCHER:** Yes.

25 **MR. MANSON:** -- and whether Canon Law --

1 when a bishop retires, for example, whether Canon Law
2 requires that to be sent to Rome or whether it stays
3 permanently within the ---

4 **BISHOP DUROCHER:** I would be guessing. I'm
5 sorry.

6 **MR. MANSON:** Thank you.

7 Again, going back to From Pain to Hope, Mr.
8 Engelmann mentioned Appendix 6 which deals with privilege
9 and confidentiality. My note to myself when I read this
10 was very good account. I was quite impressed by it. But
11 if we can just turn to Appendix 6 and paragraph 14

12 "A privilege in respect of
13 communication between a priest and
14 penitent does not exist in many
15 jurisdictions, including Ontario, but
16 has been given statutory effect in
17 Quebec and Newfoundland and in all
18 50 states of the United States."

19 This is what Mr. Sherriff-Scott was
20 referring to earlier.

21 "In the many common-law jurisdictions,
22 including Ontario, which have not
23 enacted a statutory privilege,
24 the courts may nevertheless not require
25 the disclosure of a communication

1 between a priest and penitent but t
2 his is determined on a case-by-case
3 basis."

4 I would suggest from your earlier testimony,
5 you don't accept paragraph 14?

6 **BISHOP DUROCHER:** In which sense?

7 **MR. MANSON:** In the sense that it's your
8 view that the seal of the confessional supercedes any
9 reporting duty in Ontario? I'm not asking for a legal
10 view. I'm asking for Bishop Durocher's view.

11 **BISHOP DUROCHER:** I'm saying that it is part
12 of the church teaching that the seal of the confession is
13 never to be broken.

14 **MR. MANSON:** So just to be completely clear,
15 if a priest is confessing to another priest and divulges a
16 sexual offence, it's your view that that does not trigger
17 the duty to report under Ontario law?

18 **BISHOP DUROCHER:** I'm not saying that it
19 doesn't trigger the duty to report.

20 **MR. MANSON:** You're saying then that the
21 priest hearing the confession ought to ignore the duty to
22 report?

23 **BISHOP DUROCHER:** In most cases of a
24 confession of such serious sins, the penitent will seek the
25 anonymity of the confessional box. Before 1968, it was

1 mandatory, and it still is always a faculty that a person
2 can confess in complete anonymity, and I would imagine that
3 a priest who wanted to confess such a sin would do so in
4 anonymity and so the priest who is giving the absolution
5 does not even know to whom he is speaking.

6 So I would suggest that the hypothetical
7 situation you are raising is -- well, I can't say it's not-
8 existent but I would say it is hypothetical.

9 **MR. MANSON:** Okay. But clearly that doesn't
10 apply to admissions made outside the confessional?

11 **BISHOP DUROCHER:** Absolutely not.

12 **MR. MANSON:** Now, can you define the
13 confessional for us?

14 **BISHOP DUROCHER:** When somebody comes to me
15 and says "Father, I want to confess my sins" and starts by
16 making the sign of the cross and saying "Here are my sins",
17 I know that I am in the Sacrament of Confession and until
18 I've given absolution and dismissed that person, I'm in the
19 Sacrament of Confession.

20 **MR. MANSON:** So it doesn't need to take
21 place in a particular location?

22 **BISHOP DUROCHER:** It doesn't have to
23 anymore. Though a church law says the normal place for
24 this to take place, and the -- how can I say? The required
25 place for this to do this is in a church. For serious

1 pastoral reasons it can be done outside church.

2 **THE COMMISSIONER:** I'm sorry; for what?

3 **BISHOP DUROCHER:** For serious pastoral
4 reasons it can be done outside of a church. An example is
5 when, for example, there is a retreat going on at a retreat
6 centre and there are many people there who want to go to
7 confession, well, then priests could go to the retreat
8 centre and give confessions.

9 **THE COMMISSIONER:** Or someone who is ill,
10 housebound.

11 **BISHOP DUROCHER:** Exactly. Somebody is ill,
12 in the hospital, or things like that.

13 **THE COMMISSIONER:** But can I -- I suppose
14 Mr. Manson's example is a good one, but if someone were to
15 confess and with -- you know, saying "I'm abusing young
16 children and I've abused them and I can't help myself and
17 it's likely that I'm going to do it again".

18 You know, I'm trying to pick the most
19 difficult situation for you.

20 **BISHOP DUROCHER:** Then I would -- I would
21 try as a confessor to get that person to turn themselves in
22 and to go for treatment and to change their way of being.
23 One of the requirements, one of the aspects of confession
24 is to bring about change in the person's comportment and in
25 the person's view, the way they are looking at themselves

1 and looking at other people. So in that sense, confession
2 can be a tool to bring about, how can I say, a breaking
3 open of a situation that is no longer acceptable and can be
4 a tool to bring the person to recognize the seriousness of
5 what they are doing and to act upon it.

6 **MR. MANSON:** Okay. Could we just scroll
7 down this page? Keep going.

8 Paragraph 17, again this is from appendix 6,
9 Tab 26, "From Pain to Hope":

10 "There are two situations in respect of
11 which a confidential communication must
12 be disclosed:

13 a) where the confidential communication
14 is one required to be disclosed under
15 child protection legislation, and

16 b) where a party to the confidential
17 communication which is not otherwise
18 privileged is required to testify in a
19 judicial proceeding."

20 I would suggest that you are taking a
21 different view than Pain to Hope, Bishop Durocher, with all
22 respect.

23 **BISHOP DUROCHER:** Can you give me a moment?

24 **MR. MANSON:** Yes, by all means.

25 **(SHORT PAUSE/COURTE PAUSE)**

1 **BISHOP DUROCHER:** I can't find it right now
2 in From Pain to Hope but if my memory is clear, From Pain
3 to Hope addresses the question of the sacramental seal
4 somewhere.

5 **MR. MANSON:** Oh, that's quite possible.

6 **BISHOP DUROCHER:** And so then whatever is
7 said about the sacramental seal in From Pain to Hope I
8 would agree with.

9 **MR. MANSON:** Not the appendix?

10 **BISHOP DUROCHER:** You're asking me whether I
11 agree with From Pain to Hope or not.

12 **MR. MANSON:** I was speaking specifically of
13 these comments in appendix 6 and -- which, as you pointed
14 out earlier, were put in the context of Ontario.

15 **BISHOP DUROCHER:** Yes.

16 **MR. MANSON:** Well, perhaps ---

17 **BISHOP DUROCHER:** What they are reporting is
18 what the law in Ontario is. That's correct.

19 **MR. MANSON:** Can we just move on -- let me
20 just check my notes about From Pain to Hope.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MR. MANSON:** Can we talk for a minute about
23 the audit that was prepared for you by Catholic Mutual?

24 **BISHOP DUROCHER:** Yes.

25 **MR. MANSON:** We spoke about it earlier but I

1 just wanted you to explain to the Commissioner what
2 Catholic Mutual is.

3 **BISHOP DUROCHER:** Catholic Mutual is an
4 insurance company, an insurance broker.

5 **THE COMMISSIONER:** Well, is it a broker or a
6 company?

7 **BISHOP DUROCHER:** I'm sorry. I'm not ---

8 **THE COMMISSIONER:** A broker is an agent that
9 sells for the insurance company.

10 **BISHOP DUROCHER:** That's true, yes.

11 **THE COMMISSIONER:** The insurer -- if it's an
12 insurance company, they are the ones who actually receive
13 the premiums, make money and pay out the settlements.

14 **BISHOP DUROCHER:** I'm not sure.

15 **THE COMMISSIONER:** Okay.

16 **BISHOP DUROCHER:** They are the agents
17 through which the Ontario dioceses establish insurance,
18 general insurance for themselves.

19 **MR. MANSON:** And are representatives of the
20 diocese involved in their management in any way?

21 **BISHOP DUROCHER:** No.

22 **MR. MANSON:** They don't have a management --
23 -

24 **BISHOP DUROCHER:** I'm sorry. Catholic
25 Mutual has a Board of Directors which is made up of the

1 bishops of the dioceses which have contracts with them.

2 **MR. MANSON:** So that would include yourself?

3 **BISHOP DUROCHER:** Yes. Sorry.

4 **MR. MANSON:** I have a question to ask you.

5 The report that was prepared for you by -- which is at Tab
6 47 -- is a very serious review of your current policies and
7 practices. I'm not suggesting otherwise but are you not
8 concerned about public perception in that it was conducted
9 by Catholic Mutual? In at least one way that you just
10 described, the diocese has a relationship with Catholic
11 Mutual.

12 **BISHOP DUROCHER:** I don't see what that has
13 to do with the ability of Catholic Mutual to provide this
14 kind of service. They have great expertise in that area.
15 Just to clarify, we do not hold insurance with them for
16 litigation. They are not our insurers for that purpose.
17 So they are not connected to that.

18 At the same time, they have great expertise
19 in that field and as any insurer would want to diminish the
20 risk and the possibility of any actions being performed
21 within the Diocese, that could entail any kind of problem.
22 So they would be coming to this with the whole intention of
23 making sure this policy is as clear and as tight as it can
24 be and is being implemented as well as it can be.

25 I don't think for example the fact that we

1 get audits made of our churches to see if they're fireproof
2 -- they are made by our insurance company -- I think
3 they're in the best position to be able to give that kind
4 of audit because they want to make sure that church will
5 not catch fire and they double and triple the safeguards.
6 And so I think the service that they are providing is
7 excellent. I think anybody who reads this will see that
8 and I know of no one else that can provide this kind of
9 excellence of work.

10 **MR. MANSON:** Thank you.

11 Can we turn to Tab 25 very quickly? I only
12 have a few more questions, Mr. Commissioner. I'll be very
13 quick.

14 **THE COMMISSIONER:** I don't think many of you
15 will be making the train. So ---

16 **MR. MANSON:** I drove this week.

17 **THE COMMISSIONER:** Oh, there you are.

18 **MR. ENGELMANN:** It looks like you're driving
19 everyone home.

20 **THE COMMISSIONER:** That's right. That's
21 what I'm thinking. That or Mr. Scott is entertaining
22 tonight.

23 **(LAUGHTER/RIRES)**

24 **MR. MANSON:** This was the older diocesan
25 guideline, Bishop Durocher, and I want to suggest that

1 there's a translation problem with the English version.
2 Let me read to you subsection (b) of Phase I, "Objectives
3 of the designated person". I read this and I was stumped
4 by what was going on.

5 "Ascertains that there are facts which
6 support a "reasonable motive" for the
7 complainant..."

8 That would be the person who brings the complaint.

9 "...according to the laws on the
10 protection of youth."

11 I was completely stumped until -- if we
12 could turn to the French version, please?

13 "- de vérifier s'il y a un "motif
14 raisonnable" au sens de la loi sur la
15 protection de la jeunesse."

16 It's completely clear in the French version.

17 I'm merely suggesting, Bishop, that the
18 English version would have been very confusing. Do you
19 agree? And the problem is obviously one of translation.

20 **BISHOP DUROCHER:** Yes.

21 **MR. MANSON:** Thank you.

22 Can we turn to Tab 26? Oh, no, we can leave
23 Tab 26.

24 You were speaking earlier, Bishop Durocher,
25 about confidentiality provisions and settlements and you

1 were very clear about your view that the Diocese would not
2 enter into any. What about past settlements? Would you
3 attempt to enforce a confidentiality provision in a past
4 settlement?

5 **BISHOP DUROCHER:** No.

6 **MR. MANSON:** Thank you.

7 **(SHORT PAUSE/COURTE PAUSE)**

8 **MR. MANSON:** I may be finished, Mr.
9 Commissioner. If I can just have two seconds?

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **MR. MANSON:** I have a note that in Tab 8
12 where we see one of the original Father Morrissey documents,
13 he uses the phrase "pedophilia and similar illnesses". I
14 would suggest that this is another reflection of the
15 medical approach. Even if it wasn't shared by Bishop
16 LaRocque, it seems to be shared by Father Morrissey,
17 "pedophilia and similar illnesses". He seems convinced
18 that ---

19 **BISHOP DUROCHER:** You would have to ask that
20 of him.

21 **MR. MANSON:** Thank you. Somehow I thought
22 you would say that.

23 **(LAUGHTER/RIRES)**

24 **MR. MANSON:** Those are all my questions,
25 Bishop Durocher. Thank you.

1 **THE COMMISSIONER:** Thank you.

2 **BISHOP DUROCHER:** You're welcome.

3 **THE COMMISSIONER:** Mr. Lee?

4 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE:**

5 **THE COMMISSIONER:** So Mr. Lee, what time
6 estimate did you give?

7 **MR. LEE:** I started off at 45 minutes to an
8 hour and I went down to 45 minutes and I think based on the
9 last few questions Mr. Manson asked, we may be closer to
10 half an hour. I also drove. So I'm not concerned about
11 the trains.

12 **THE COMMISSIONER:** Lead time.

13 **MR. LEE:** What's that?

14 **THE COMMISSIONER:** That's lead time.

15 **MR. LEE:** We'll see.

16 **THE COMMISSIONER:** I think what we should do
17 though is those who have asked questions first, we should
18 confiscate the keys to make sure that you stay till the
19 end.

20 **(LAUGHTER/RIRES)**

21 **MR. LEE:** Bishop Durocher, my name is Dallas
22 Lee. I'm counsel for the Victims Group.

23 I have a few questions for you and I'll do
24 my best to go in the order that you've presented in your
25 outline of evidence but you'll forgive me if I jump around

1 a little bit.

2 I'd like to start, if we could, at page 1 of
3 your outline and I have a few questions about the
4 Congregation of the Doctrine of the Faith.

5 **THE COMMISSIONER:** Where are you now?

6 **MR. LEE:** I'm at page 1 of the outline.

7 **THE COMMISSIONER:** Yes.

8 **MR. LEE:** And I believe where -- a few more
9 bullets down, please. Right there at the fourth last
10 bullet.

11 The fourth last bullet reads:

12 "The Congregation of the Doctrine of
13 the Faith administers religious policy
14 and doctrine as well as the formal
15 judicial process which involves
16 suspension or reduction to lay status
17 of a priest or other religious official
18 as a result of a serious offence."

19 Would you agree in this context, sir, that a
20 priest having sex with a minor being a person under 16
21 years old would constitute a serious offence under Canon
22 Law?

23 **BISHOP DUROCHER:** As I said earlier, the
24 Congregation of the Doctrine of the Faith issued a ruling
25 in 1992 that any such offence reported before the victim

1 has reached the age of 28 must be reported to the
2 Congregation of the Doctrine of the Faith.

3 **MR. LEE:** And would we refer to it as a
4 canonical offence?

5 **BISHOP DUROCHER:** Well, it's an offence
6 under Canon Law, yes.

7 **MR. LEE:** Would that be known as a canonical
8 offence or am I taking a liberty there?

9 **BISHOP DUROCHER:** I don't ---

10 **MR. LEE:** I'm happy with an offence under
11 Canon Law.

12 **BISHOP DUROCHER:** Yes.

13 **MR. LEE:** That's fine. Now, for an offence
14 under Canon Law, at the severe end of the spectrum,
15 punishment could include dismissal from the priesthood. Is
16 that correct?

17 **BISHOP DUROCHER:** That's correct.

18 **MR. LEE:** Similarly under Canon Law, would
19 you agree that homosexual activity is also a serious crime?

20 **BISHOP DUROCHER:** I'm not sure if it is
21 listed under -- as one of the crimes that is reserved to
22 the Congregation of the Doctrine of the Faith. I don't
23 know.

24 **MR. LEE:** I'm not necessarily speaking
25 solely about the Congregation at this point, just under

1 Canon Law in general.

2 **BISHOP DUROCHER:** No, it's that the
3 Congregation has determined which crimes it takes to
4 itself, okay. So what I'm saying is that the list is clear
5 and the list is -- we have it in one of the tabs, if you
6 want to look at it.

7 **THE COMMISSIONER:** Tab 1, I believe, page 4.

8 **MR. LEE:** So if I understand what you're
9 saying, there are a number of offences under canon law, but
10 the Congregation of the Doctrine of Faith doesn't assume
11 jurisdiction over all of them; is that correct? Does it
12 just set aside certain offences that it deals with?

13 **THE COMMISSIONER:** It's not there.

14 **BISHOP DUROCHER:** Sacramentorum Sanctitatis
15 Tutela, which is ---

16 **MR. LEE:** I missed that.

17 **BISHOP DUROCHER:** Yes.

18 **THE COMMISSIONER:** I'm sorry?

19 **BISHOP DUROCHER:** Tab Number 50.1.

20 **THE COMMISSIONER:** Fifty (50) ---

21 **BISHOP DUROCHER:** Fifty point one (50.1).

22 **THE COMMISSIONER:** Right. Okay.

23 **MR. LEE:** And what are we looking at here,
24 sir?

25 **BISHOP DUROCHER:** I'm just looking for it.

1 Just a moment. Article 3, this would be page 3 of 11 --
2 article 3. These are the lists of crimes, canonical
3 crimes, I guess you could call them, that are reserved to
4 the Congregation of the Doctrine of the Faith, the
5 absolution of an accomplice in a sin against the sixth
6 commandment of the Decalogue, which means if a priest who
7 was to have sexual activity with another adult and that
8 adult came to that priest for absolution of that sin, the
9 priest is not allowed to do that. That's a crime under
10 canon law. That is reserved to them.

11 Number two:

12 "The solicitation to a sin against the
13 sixth commandment of the Decalogue, in
14 the act, on the occasion or under the
15 pretext of confession..."

16 A priest who would use the occasion of confession to seduce
17 someone.

18 Number three:

19 "The direct and indirect violation of
20 the sacramental seal..."

21 Which we've spoken about.

22 "...for the recording by any technical
23 instrument in a broadcast by means of
24 instruments of social communication of
25 what is said in the sacramental seal."

1 And then on the following page:

2 "Reservation to the Congregation for
3 the Doctrine of the Faith is also
4 extended to a delict against the sixth
5 commandment of the Decalogue committed
6 by a cleric with a minor under the age
7 of 18 years old."

8 So homosexuality does not fall among the
9 crimes that are reserved to the Congregation of the
10 Doctrine of the Faith.

11 **MR. LEE:** A couple of questions flowing from
12 that. The word "delict" -- how do you pronounce it?

13 **BISHOP DUROCHER:** I'm not sure.

14 **MR. LEE:** Is that another word for crime?

15 **BISHOP DUROCHER:** Yes.

16 **MR. LEE:** As you have used it?

17 And secondly, under article -- is it Article
18 3 that you've read here and Article 4, I suppose, these all
19 deal with the sanctity of the sacrament; is that correct?

20 **BISHOP DUROCHER:** Yes.

21 **MR. LEE:** All these offences involve the
22 sacrament, whether ---

23 **BISHOP DUROCHER:** Well, Article 3 or Article
24 1 is -- I didn't read that -- is with the Eucharist.
25 Article 2 is with the Eucharist. Article 3 is with the

1 sacrament of reconciliation and then they add Article 4
2 which is the specific crime of a sexual sin committed by a
3 cleric with a minor below the age of 18.

4 **MR. LEE:** So these are the offences that you
5 spoke of earlier that need to be reported to the
6 Congregation of the Doctrine of the Faith?

7 **BISHOP DUROCHER:** Exactly.

8 **MR. LEE:** And only these; is that correct?

9 **BISHOP DUROCHER:** Only these. That's right.

10 **MR. LEE:** Okay. And this, I believe, is
11 what you referred to in Tab 50 where you pointed us to the
12 spot where if the complainant is under 28 years old ---

13 **BISHOP DUROCHER:** Yes.

14 **MR. LEE:** Do you know how long that
15 requirement has been in place, the reporting requirement?

16 **BISHOP DUROCHER:** To the Congregation of the
17 Doctrine of the Faith?

18 **MR. LEE:** Yes.

19 **BISHOP DUROCHER:** This document is dated
20 from 1992, I believe.

21 **MR. LEE:** As far as you know, is that the
22 first time that that requirement was put in place?

23 **BISHOP DUROCHER:** As far as I know, yes.

24 **MR. LEE:** And that requirement continues
25 today?

1 **BISHOP DUROCHER:** Yes, it does. I'm sorry,
2 given in Rome at St. Peter's on April 30th, 2001. I'm
3 sorry, 2001.

4 **MR. LEE:** Does that change your earlier
5 answer? It's from the date of that document then?

6 **BISHOP DUROCHER:** That's right, that that
7 requirement started.

8 **MR. LEE:** And as far as you know, before
9 that date in 2001, that requirement was not there?

10 **BISHOP DUROCHER:** That's correct.

11 **MR. LEE:** Okay. Now, you've told us that
12 there's never been a canonical tribunal held at the
13 Diocese; is that correct?

14 **BISHOP DUROCHER:** That's correct.

15 **MR. LEE:** And presumably, however, there's
16 been a ---

17 **BISHOP DUROCHER:** Sorry, let me clarify. A
18 penal process -- a canonical penal process. There's a
19 canonical tribunal for marriage annulity. That has
20 existed in the Diocese for a number of years. For the
21 declaration of annulity of a marriage, that's a canonical
22 tribunal.

23 **MR. LEE:** Right.

24 **BISHOP DUROCHER:** So there has been a
25 canonical tribunal in existence in the Diocese, but it's

1 never been held in the Diocese as a canonical penal
2 process.

3 **MR. LEE:** So there's never been a canonical
4 tribunal having anything to do with the subject matter of
5 this inquiry at the Diocese?

6 **BISHOP DUROCHER:** That's correct.

7 **MR. LEE:** Have there been -- despite the
8 fact that there haven't been formal tribunals, have there
9 been be they ad hoc or less formal investigations at least
10 of -- I mean, presumably with the Father Deslauriers
11 situation there would have ---

12 **BISHOP DUROCHER:** Obviously, yes.

13 **MR. LEE:** Even if it wasn't a tribunal,
14 there clearly was an investigation; is that correct?

15 **BISHOP DUROCHER:** That's right, yes.

16 **MR. LEE:** Is there a formal record-keeping
17 process within the Diocese when something like that occurs?

18 **BISHOP DUROCHER:** Well, for example, in the
19 case of Father Deslauriers, there was, yes.

20 **MR. LEE:** Clearly, documents were kept and
21 there was -- record keeping happened, but was it the result
22 of a process that you have in place, something written, a
23 policy that was adhered to?

24 **BISHOP DUROCHER:** No, it was an ad hoc
25 process. The new protocol says that all the minutes of the

1 work of the delegate and of the advisory committee must be
2 kept up to date so that there is a written record kept now
3 of all the work of the delegate and of the advisory
4 council.

5 **MR. LEE:** And as far as you know, have the -
6 - prior to the new guidelines coming in -- protocol coming
7 into place which stipulate that -- the records from prior
8 investigations and prior canonical investigations, have
9 those been produced to the Commission?

10 **BISHOP DUROCHER:** I've produced to the
11 Commission everything that we have on file dealing with any
12 allegation of sexual abuse of a minor.

13 **MR. LEE:** So anything relevant to this
14 inquiry has been produced?

15 **BISHOP DUROCHER:** That's right.

16 **MR. LEE:** I'd like to turn the discussion to
17 religious orders. I believe, specifically, I'm looking at
18 page 3 of your outline of evidence. And you've discussed
19 with both Mr. Engelmann and Mr. Manson the fact that
20 there's a little bit of a wrinkle to the exact relationship
21 between a diocese or a bishop and religious orders and that
22 there are various -- and you set out a chart in your
23 materials.

24 Would you agree that despite the fact that -
25 - and we have the chart on the screen now where the

1 religious order priest or nun would be accountable to the
2 elected superior general. Despite that direct
3 relationship, would you agree that a diocesan bishop is
4 nonetheless responsible in some way for the priests or nuns
5 that he's permitted to conduct activities in his diocese,
6 if I can put it that way?

7 **BISHOP DUROCHER:** It's a very broad term,
8 responsible for. What are you trying to ask me?

9 **MR. LEE:** Well, my understanding is that you
10 -- in order for -- a bishop, sorry, not you specifically --
11 a bishop is maybe in a position to grant religious
12 faculties to a member of a religious order; is that
13 correct?

14 **BISHOP DUROCHER:** That's correct.

15 **MR. LEE:** Would you agree in the case of,
16 for example, where misconduct occurs by a member of that
17 religious order, in a case where religious faculties have
18 been granted by the Bishop, that he would assume some
19 responsibility for ---

20 **BISHOP DUROCHER:** In the exercise of the
21 mandate for which I have given him jurisdiction, I would
22 say yes, but not outside of that. I do not give, for
23 example, a mandate to the Legionaries of Christ to be
24 running a novitiate here. So I do think that I am
25 responsible for what they are doing as they run the

1 novitiate. I do give them jurisdiction to celebrate the
2 sacraments in parishes. If something were to happen while
3 they were celebrating a sacrament in a parish, then I would
4 consider that there is some relationship, yes.

5 **MR. LEE:** And there's a clear distinction
6 there?

7 **BISHOP DUROCHER:** There is, because the
8 faculties are given from ministry -- a specific ministry
9 within the Diocese, for the celebration of mass or for the
10 hearing of confession in the parishes and things like that.

11 **MR. LEE:** Would you agree that a diocesan
12 bishop who became aware of misconduct on the part of a
13 religious order priest or nun operating within the Diocese
14 would be responsible for advising the superior general of
15 that official?

16 **BISHOP DUROCHER:** I can tell you that if I
17 became aware of something, I would certainly advise the
18 superior general, absolutely.

19 **MR. LEE:** Do you see it as a matter of your
20 responsibility or as a matter of how you would operate?

21 **BISHOP DUROCHER:** A moral responsibility,
22 certainly. I'm not sure if it's a canonical
23 responsibility.

24 **MR. LEE:** Fair enough.

25 I would like to turn to a discussion of

1 schools. I believe this is in your outline at page 14, the
2 discussion. I will apologize in advance for how I am about
3 to butcher this name in French. You spoke of the religious
4 order of les Clercs Saint-Viateur.

5 **BISHOP DUROCHER:** Yes.

6 **MR. LEE:** And specifically how they ran the
7 Cornwall Classic College for Boys; is that correct?

8 **BISHOP DUROCHER:** That's correct.

9 **MR. LEE:** Would that order have required the
10 granting of religious faculties from the diocesan bishop?

11 **BISHOP DUROCHER:** For the clerics who are
12 doing ministry in parishes on weekends it would require
13 faculties to be able to do religious ministry on the
14 weekends in the parishes, yes.

15 **MR. LEE:** What about their activities at the
16 school themselves?

17 **BISHOP DUROCHER:** No.

18 **MR. LEE:** I apologize for the sort of
19 ignorance on my part.

20 **BISHOP DUROCHER:** Sure.

21 **MR. LEE:** In the schools -- would there ever
22 be a confession in the schools, anything like that? Would
23 they perform pastoral duties in the schools?

24 **BISHOP DUROCHER:** They would celebrate mass
25 with the students, yes. They would receive faculties, if

1 I'm not mistaken, for work within their schools from their
2 own superior.

3 MR. LEE: So they wouldn't require faculties
4 from the Bishop of the Diocese within which ---

5 BISHOP DUROCHER: For the work that they're
6 doing in the schools, I believe not, but I must admit that
7 I would stand to be corrected on that.

8 MR. LEE: So you're not absolutely certain?

9 BISHOP DUROCHER: That's right.

10 MR. LEE: Were diocesan priests employed at
11 the college at any point, do you know?

12 BISHOP DUROCHER: I'm not aware that any
13 diocesan priest was ever employed at the college.

14 MR. LEE: Just the wording there -- do you
15 know whether any were or, as far as you know, they weren't
16 but you're not sure?

17 BISHOP DUROCHER: Well, my problem with this
18 whole thing is that I'm a student of the records and I'm
19 reading the records. There are no records that show that a
20 diocesan priest worked at the college -- le Collège de
21 Cornwall. So I'm giving you the report from my knowledge
22 based on the documentation that I've read.

23 MR. LEE: My understanding is that there are
24 allegations and criminal prosecutions of priests committing
25 acts of sexual abuse at the Classic College, not

1 necessarily diocesan. I have no information that they were
2 diocesan priests that were involved.

3 The question I have for you is have you come
4 across any records in the Diocese of diocesan involvement
5 in responding to those allegations and investigating the
6 allegations?

7 **BISHOP DUROCHER:** No.

8 **MR. LEE:** Nothing at all?

9 **BISHOP DUROCHER:** No.

10 **MR. LEE:** I would like now to turn to the
11 policies and procedures section of your outline of evidence
12 just generally. As you know, the outline begins -- the
13 large heading anyways begins in the 1980s. Your evidence,
14 as I understood today, was that no particular protocol or
15 policy in this regard existed before the 1980s; is that
16 correct?

17 **BISHOP DUROCHER:** As far as I know, that's
18 right.

19 **MR. LEE:** And my recollection of your
20 evidence was that there were a few guidelines in canon law
21 that a Bishop could follow for example, but outside of
22 that, the Bishop would rely on his own discretion.

23 **BISHOP DUROCHER:** That's correct.

24 **MR. LEE:** And specifically I think you said
25 that in exercising that discretion, it would really be on a

1 case-by-case basis.

2 **BISHOP DUROCHER:** Correct.

3 **MR. LEE:** I would like to bring you to a
4 Vatican document from 1962 entitled -- the English
5 translation is the "Crime of Solicitation and the Worst
6 Crime".

7 I have passed that out to counsel, Mr.
8 Commissioner. This is not a new document to this inquiry.
9 It was filed as part of the Victims Group materials during
10 the jurisdictional motion to determine whether the Diocese
11 was a public institution. I believe specifically it was
12 Exhibit M-1, B-2, Tab Q. That was an affidavit filed by my
13 colleague Rob Talach.

14 **THE COMMISSIONER:** Do we have that?

15 **MR. LEE:** For the convenience of the parties
16 and everyone else, I brought 20-some copies today.
17 Everybody has received a copy.

18 Do you have a copy, sir?

19 **BISHOP DUROCHER:** I do.

20 **MR. SHERRIFF-SCOTT:** The evidence is that
21 this is not an authentic document of the Vatican. It is
22 not an authentic translation from Latin, and as the Bishop
23 will tell you, or he can be asked, we do not have this in
24 our files. If this line of questioning is going to be
25 pursued, the appropriate document should be before the

1 Commission. This is not an authenticated document. In
2 other words, there is no evidence and Mr. Morrisey swore
3 that this is not a Vatican document. It is a website
4 version and that there are inconsistencies. I don't know
5 where they are. The Bishop, I assume, doesn't know where
6 they are, and I would be troubled if we were relying on
7 this as a document of the Vatican when it is not.

8 **THE COMMISSIONER:** Hang on now. You're
9 telling me that in Mr. Morrisey's affidavit he says this
10 isn't ---

11 **MR. SHERRIFF-SCOTT:** He says this document
12 is from a website.

13 **THE COMMISSIONER:** Yes.

14 **MR. SHERRIFF-SCOTT:** And that this is not an
15 approved version of translation and it is not issued by the
16 Vatican. There was a document with this name, but this
17 document emanates from a website. It is not an approved
18 version. It is not from the Vatican. So there are
19 inconsistencies in this document, according to Father
20 Morrisey, between the original issued document and the
21 document that's approved by the Vatican.

22 **THE COMMISSIONER:** Okay.

23 **MR. SHERRIFF-SCOTT:** I'm not sure the
24 witness can help you identify what those are. That's
25 something Mr. Morrisey may have to debate.

1 **THE COMMISSIONER:** It purports to be --
2 there's the signature of the judge ordinary or his
3 delegate.

4 **MR. SHERRIFF-SCOTT:** Father Morrisey has
5 testified this is not original.

6 **THE COMMISSIONER:** I understand that he's
7 saying it's not the version. Maybe we can ask Monseigneur
8 Durocher.

9 You've got this document in front of you
10 now. Have you ever seen something like this before?

11 **BISHOP DUROCHER:** The only time I saw it was
12 when it was brought into evidence by Mr. ---

13 **THE COMMISSIONER:** Okay. So other than what
14 Mr. Scott has said, would you have any concerns about it?
15 If it's not authentic, that would be a good concern, but
16 any more specific concern?

17 **BISHOP DUROCHER:** My problem is I have no
18 way of verifying the authenticity. I don't know if this is
19 a correct translation of that document.

20 **THE COMMISSIONER:** M'hm.

21 **MR. LEE:** I spoke to Mr. Sherriff-Scott
22 earlier today and he had informed me of his position that
23 this was an authentic document -- or was not an authentic
24 document -- I apologize.

25 I don't know if the same objection would

1 have been raised had I produced the Latin document. I don't
2 know if the Latin documents that are publicly accessible
3 are the official version or if they're not. I obviously
4 didn't see much point in producing a Latin document. I
5 didn't realize until today -- perhaps I should have -- that
6 there were issues about the quality of the translation of
7 this document.

8 I suppose my response to the objection is
9 that we -- first off, this is already an exhibit. Second
10 off, I am not intending to question the witness on this
11 document with respect to specific cases or specific things
12 that happened in the Diocese. There are certain issues I
13 wanted to bring to his attention just very generally. I
14 wanted -- one of the questions I wanted to ask was whether
15 or not this was in the Diocese files, whether or not the
16 Diocese had received this.

17 **THE COMMISSIONER:** Go ahead and Mr. Scott
18 will object if you go into some territory where he has some
19 concerns.

20 Sorry, first a question. Do you have this
21 in your file, this or any reasonable facsimile?

22 **BISHOP DUROCHER:** No, I have not seen
23 anything like this in our diocesan files.

24 **THE COMMISSIONER:** Okay. Go ahead.

25 **MR. LEE:** Have you -- I suppose the first

1 question, at the top of the document underlined in capital
2 letters, it says "From the Supreme and Holy Congregation of
3 the Holy Office". Can you explain what that means to us?
4 Are you familiar with that office?

5 **BISHOP DUROCHER:** The Congregation of the
6 Holy Office is the old name for the Congregation of the
7 Doctrine of the Faith.

8 **MR. LEE:** And are those offices identical
9 other than the name change?

10 **BISHOP DUROCHER:** That's correct.

11 **MR. LEE:** Who currently heads that office?

12 **BISHOP DUROCHER:** Cardinal Levada.

13 **MR. LEE:** So this isn't headed by the Pope,
14 this particular office; is that correct?

15 **BISHOP DUROCHER:** No.

16 **MR. LEE:** Now, on the first page, as you can
17 see, it is addressed to -- it looks like -- it's not the
18 greatest copy, but I believe it reads "For all patriarchs,
19 archbishops, bishops and other diocesan ordinaries even of
20 the oriental rite". Do you see that?

21 **BISHOP DUROCHER:** Yes.

22 **MR. LEE:** And it's titled an "Instruction".
23 Are you familiar with that word,
24 instruction, in this context?

25 **BISHOP DUROCHER:** Yes.

1 **MR. LEE:** And what does that mean to you,
2 sir?

3 **BISHOP DUROCHER:** An instruction is a series
4 of regulations under the new Code, basically bringing
5 together different rules and regulations from various
6 sources into one document for efficiency, you could say.
7 It's equivalent to guidelines for the functioning around
8 certain issues. For example, there's been an instruction
9 released on issues of abuses within the liturgy of the
10 Eucharist and following the rules around the celebration of
11 the Eucharist as one of the recent instructions that has
12 been issued by Rome.

13 **MR. LEE:** Are instructions typically similar
14 to recommendations in that they're not mandatory or are
15 these instructions in the sense that here's how you're
16 expected to behave and these are the procedures you're
17 expected to follow?

18 **BISHOP DUROCHER:** That's a good question of
19 canon law because, if I'm not mistaken, in the new Code,
20 the '83 Code, it's indicated that instructions do not
21 create new law but simply compile existing law. It's, from
22 what I understand, a debate because some of the
23 instructions do seem to create new law. So there's a
24 question as to the strength and validity of these
25 instructions. It's a good question for a thesis in canon

1 law.

2 MR. LEE: Are instructions still being sent
3 out today from the Vatican?

4 BISHOP DUROCHER: Yes.

5 MR. LEE: And ---

6 BISHOP DUROCHER: Well, for example,
7 Sacramentorum Sanctitatis Tutela, the one that I referred
8 to, is an instruction.

9 MR. LEE: Right.

10 And it also refers on this front page to
11 being issued by the Vatican Press in 1962.

12 Would instructions typically be issued by
13 the Vatican Press?

14 BISHOP DUROCHER: Normally not. Normally
15 instructions or laws are issued by the Acta Apostolicae
16 Sedes, which is the official journal of the Vatican.

17 Mind you, excuse me, it could be printed by
18 the Vatican Press, but it is -- but they are issued within
19 that journal called the AAS for short.

20 MR. LEE: Notwithstanding any issues there
21 may be with the translation, are you aware that a document
22 of roughly this name was issued in Latin at some point?

23 BISHOP DUROCHER: My understanding, speaking
24 with Father Morrissey, is this document was never published
25 in AAS, which means that it was never officially

1 promulgated in the Catholic Church.

2 **MR. LEE:** Do you have any independent
3 knowledge of that, or was that ---

4 **BISHOP DUROCHER:** That's his testimony to
5 me. I've spoken with him about that. You might want to
6 verify with him.

7 **MR. LEE:** I'm not sure exactly how to
8 proceed here, Mr. Commissioner. My intention was to
9 briefly go over some of the issues that are touched upon in
10 this document. I would propose that maybe I start that and
11 if Mr. Sherriff-Scott has issues with it, then ---

12 **THE COMMISSIONER:** Well, if this gentleman
13 is saying that this was never proclaimed, what's the
14 relevance of doing that?

15 Well, go ahead. Go ahead.

16 **MR. LEE:** Well ---

17 **THE COMMISSIONER:** I don't know what your
18 questions are. So far you've been doing well.

19 **MR. LEE:** I appreciate it. I like little
20 updates as we go of how I'm doing.

21 If I could have you, sir, turn to page, I
22 believe, 17 of this document. I don't believe the hardcopy
23 is numbered, but it ---

24 **THE COMMISSIONER:** You might want, in the
25 future, if they're not, just get someone to pen in ---

1 **MR. LEE:** I have to admit that this was a
2 late-evening project from last night and I simply didn't
3 realize I was going to rely on it and didn't have time to,
4 but from now on I'll be sure to do that.

5 What I'm looking for is actually page 16 of
6 the electronic document.

7 **THE COMMISSIONER:** Is it an appendix?

8 **MR. LEE:** It is not. It's the page before
9 that.

10 **THE COMMISSIONER:** Okay. So it's page 24.

11 **MR. LEE:** Of my document. You have the
12 Latin version, I believe. Try page 16.

13 **THE COMMISSIONER:** Number 24. So if you go
14 through -- do you have it, Monseigneur?

15 **BISHOP DUROCHER:** Yes.

16 **MR. LEE:** Try page 16 of the electronic
17 version, please.

18 **THE COMMISSIONER:** That's not the document.

19 **MR. LEE:** It is 16 pages in to the
20 instructions.

21 **THE COMMISSIONER:** Oh, it is. Keep going
22 down then. There's a 24 at some point. I will keep going
23 up to 24. Do you see the numbers?

24 **MR. LEE:** What I wanted to draw your
25 attention to is the section under the number 24 which

1 reads:

2 "From the audience of the Holy Father,
3 March 16, 1962..."

4 It continues:

5 "Our Most Holy Father, John the XXIII,
6 in an audience granted to the most
7 Eminent Cardinal Secretary of the Holy
8 Office on March 16, 1962, deemed to
9 approve and confirm this instruction,
10 ordering upon those to whom it pertains
11 to keep and observe it in the minutest
12 detail..."

13 It continues:

14 "At Rome, from the Office of the Sacred
15 Congregation, March 16, 1962..."

16 Then there's obviously a place for the seal and the name on
17 it would be Cardinal Ottaviani.

18 My question for you, sir, is that if you can
19 explain to us exactly what "from the audience of the Holy
20 Father" would mean?

21 **BISHOP DUROCHER:** In an audience granted to
22 the most Eminent Secretary, is that what you're asking me
23 to explain?

24 **MR. LEE:** Yes.

25 **BISHOP DUROCHER:** What this seems to be

1 saying is that the document was prepared by the Holy Office
2 and they're asking the Pope to make it official.

3 MR. LEE: And the process from there, I take
4 it, for it to be published in -- and I don't remember the
5 letters you gave me, the CCS or the ---

6 BISHOP DUROCHER: The AAS.

7 MR. LEE: The AAS, and it would then be
8 promulgated?

9 BISHOP DUROCHER: That's right.

10 MR. LEE: And as far as you understand from
11 speaking to Father Morrissey, it wasn't promulgated?

12 BISHOP DUROCHER: That's correct.

13 MR. LEE: And you have no record of it in
14 your files?

15 BISHOP DUROCHER: That's correct.

16 If I can just place the context?

17 MR. LEE: Certainly.

18 BISHOP DUROCHER: Sixty-two ('62) to '65 was
19 the beginning of the second Vatican Council. The Pope John
20 XXIII had called not only for the second Vatican Council
21 but for a review of the whole of canon law.

22 MR. LEE: Right.

23 BISHOP DUROCHER: So it was a time of a
24 certain uncertainty, you could say, in the work of some of
25 the various departments within Rome, which could help to

1 explain why a document could be prepared and then not
2 promulgated.

3 **MR. LEE:** Right.

4 **BISHOP DUROCHER:** But that is conjecture.

5 **MR. LEE:** In fairness to you, I'm going to
6 leave that document at that.

7 If we can turn to page 15 of your outline,
8 please? This is where you deal specifically with the
9 evolution of policies and procedures in the '80s in this
10 Diocese. And you note on this page that Bishop LaRocque,
11 in 1989, made a request to the Archbishop of Toronto and
12 the Bishop of London for copies of their guidelines used to
13 respond to allegations of abuse.

14 As far as you know, is there anything in
15 particular that precipitated that request?

16 **BISHOP DUROCHER:** I can't remember, no.

17 Again, just to give context, in '89, the
18 springtime of '89 was the time when eight brothers from
19 Mount Cashel were charged and the Winter Commission was set
20 up in Newfoundland. So obviously that created a greater
21 degree of awareness around these issues, I think, across
22 Canada.

23 **MR. LEE:** It was a bit of a hot issue at the
24 time; is that correct?

25 **BISHOP DUROCHER:** Definitely.

1 **MR. LEE:** Do you have any records -- in your
2 review and preparation for this inquiry, did you come
3 across any records of the Diocese of Alexandria-Cornwall
4 having ever reported an employee or a priest to the
5 Children's Aid Society?

6 **BISHOP DUROCHER:** Is there a record of the
7 Diocese reporting someone to the Children's Aid Society?

8 **MR. LEE:** As far as you know, has there ever
9 been a report made under various statutes in place
10 throughout the years that we would refer to as a duty to
11 report? I'm sorry?

12 **BISHOP DUROCHER:** I'm not sure. I'm not
13 sure.

14 **MR. LEE:** If I can take you to Tab 31, which
15 is the Diocesan Guidelines on Sexual Abuse by Priests,
16 Deacons, Seminarians and Pastoral Assistants.

17 **BISHOP DUROCHER:** Tab 31?

18 **MR. LEE:** And this is the policy or the
19 guideline rather that was signed by Bishop LaRocque on June
20 21st of 1995?

21 **BISHOP DUROCHER:** Yes.

22 **MR. LEE:** You will notice on the first page
23 that here in "Phase I" under "Receiving a Complaint", it
24 reads:

25 "The first person receiving a complaint

1 has to report it immediately to the
2 Children's Aid Society if the victim is
3 under 16 years of age at the time the
4 offence or to the police. The person
5 receiving the complaint should not
6 accept nor withhold any material proof.
7 He writes personal notes about the
8 inception of the complaint."

9 Would you agree with me that as opposed to
10 the past policies, this is the first one that now has
11 reporting to the CAS as the first step in the policy?

12 **BISHOP DUROCHER:** I'd have to compare it to
13 the previous policy, which is at Tab 28.

14 **MR. LEE:** Twenty-eight (28).

15 **BISHOP DUROCHER:** In the previous guideline
16 it said that the person who receives the complaint must
17 advise the complainant of the obligation to notify the CAS.
18 Here it says that the person receiving the complaint
19 reports it himself to the CAS.

20 **MR. LEE:** So that's a material change.
21 Would you agree?

22 **BISHOP DUROCHER:** Yes, oh, yes.

23 **MR. LEE:** And as I understand it, as of June
24 1995, when this is drawn up and signed, this is now the
25 full Diocese guideline. Is that correct?

1 **BISHOP DUROCHER:** It replaces the previous
2 one, yes.

3 **MR. LEE:** Right.

4 Now if I can take you to page 19 of your
5 outline at Tab 1, and this where you speak of the
6 "'Diocesan Guidelines on Managing Allegations of Sex Abuse
7 of Children of Sexual Assaults by Clergy, Religious, Lay
8 Employees and Volunteers' becomes effective as of July 1
9 2003". Is that correct?

10 **BISHOP DUROCHER:** I am sorry.

11 **MR. LEE:** If we could go to ---

12 **BISHOP DUROCHER:** We are on page 19?

13 **MR. LEE:** Yes, we are. Up a little bit,
14 please.

15 **BISHOP DUROCHER:** Okay. Yes.

16 **MR. LEE:** Just a little bit more. Right
17 there.

18 So this is where we're talking about the new
19 Guideline that comes in on July 1st, '03?

20 **BISHOP DUROCHER:** That's right.

21 **MR. LEE:** And one of the sections that you
22 set out as being within the guideline at point "D" is the
23 Diocese's accountability. Is that correct?

24 **BISHOP DUROCHER:** That's correct.

25 **MR. LEE:** And then if we can briefly look at

1 Tab 47, please? I believe there are -- I, on my system
2 anyways have an original Tab 47 and then a replacement Tab
3 47. The original has a -- yes, has a covering page to it
4 and that's what I'm interested in.

5 Yes, that's the one. If we can look at the
6 second paragraph. On the fifth line, the sentence begins
7 with "Furthermore". And it reads:

8 "Furthermore, the diocesan guidelines
9 do need the following acceptable
10 standards: An absolute adherence to
11 the proper reporting of all new
12 allegations to the appropriate civil
13 authorities as established and
14 respected."

15 My question is in order for that statement
16 to be made, it would seem to me that in order to have a --
17 it's possible to have a guideline established, but in order
18 for something to be respected, it must have been tested and
19 adhered to at some point.

20 Is that your understanding that by that
21 point there had been occasion within the Diocese to put the
22 guideline into place and that new allegations to
23 appropriate civil authorities were made at some point?

24 **BISHOP DUROCHER:** The sentence speaks about
25 the guidelines themselves and which standards the

1 guidelines meet.

2 MR. LEE: Right.

3 BISHOP DUROCHER: You are asking me whether
4 we have had the occasion to implement the guidelines.

5 MR. LEE: Right.

6 BISHOP DUROCHER: There have been a few
7 cases of anonymous allegations, which were handled by the
8 Advisory Committee since the establishment of the
9 Commission, of the protocol, and they follow the protocol
10 as it is written out.

11 MR. LEE: So that had occurred by this point
12 in time?

13 BISHOP DUROCHER: Yes.

14 MR. LEE: If I can then take you to the
15 replacement of Tab 47, which is just simply a clearer
16 version of what is below and take you to page 14 of 18 in
17 the electronic version. The heading on this page is Roman
18 numeral VIII, "Transfer for Ministerial Assignment".

19 Do you have that sir?

20 BISHOP DUROCHER: Yes, I do.

21 MR. LEE: The first question being posed by
22 reviewers:

23 "Does the Arch/Diocese have a written
24 policy precluding transfer of clerics
25 who have committed an act of sexual

1 misconduct to another Arch/Diocese or
2 religious order?"

3 And the answer is "No".

4 The explanation below that is:

5 "Although the Diocese does not have a
6 written policy concerning the transfer
7 of priests who have committed an act of
8 sexual misconduct to another diocese or
9 a religious order, it is clear the
10 Bishop would not permit a transfer of a
11 priest who has committed an act of
12 sexual misconduct."

13 Do you know what that comment is based upon?

14 **BISHOP DUROCHER:** Yes, I was interviewed.

15 **MR. LEE:** You were interviewed?

16 **BISHOP DUROCHER:** By the audit.

17 **MR. LEE:** By the auditor. So presumably
18 this is his expression of his satisfaction with the
19 interview and him satisfying himself of your intentions of
20 what your actions would be. Is that right?

21 **BISHOP DUROCHER:** That's correct.

22 **MR. LEE:** Is there at this point a written
23 policy precluding the transfer of clerics?

24 **BISHOP DUROCHER:** It comes back to what I
25 was saying earlier. It's like writing a policy for myself.

1 **MR. LEE:** Right.

2 **BISHOP DUROCHER:** I take the point that
3 maybe it is worth it and I will work on that.

4 **MR. LEE:** Okay. Give me just one second
5 please.

6 **(SHORT PAUSE/COURTE PAUSE)**

7 **MR. LEE:** Finally, I would like to continue
8 the discussion of Canon Law a little bit that you've
9 started today.

10 I have -- at page 20 of your outline, you
11 write that:

12 "Canon Law does not give specific
13 directions on how to deal with
14 allegations of abuse."

15 And I believe today you testified that Canon
16 Law simply wasn't written to deal with these situations.
17 It is something that needs to be specified.

18 I've, Mr. Commissioner, as well today have
19 handed out simply printouts from the Vatican website of
20 certain sections of the Code of Canon Law, and I would ask
21 that this be marked an Exhibit.

22 **THE COMMISSIONER:** Exhibit No. 60?

23 **MR. LEE:** Yes.

24 **MR. SHERRIFF-SCOTT:** Just so we don't
25 confuse the record, is the previous document an exhibit?

1 **THE COMMISSIONER:** Well, no the previous
2 document ---

3 **MR. SHERRIFF-SCOTT:** I don't think it is.

4 **THE COMMISSIONER:** --- is it -- it's already
5 an exhibit; it was referred to and Mr. Lee was kind enough
6 to identify it as being the previous exhibit and named it.

7 **MR. SHERRIFF-SCOTT:** So perhaps this should
8 be Exhibit 59 then.

9 **THE COMMISSIONER:** Okay.

10 **THE REGISTRAR:** Number 59 was CCR.

11 **THE COMMISSIONER:** So we are up to number
12 60.

13 **MR. LEE:** The document introduced by Mr.
14 Manson was 59. Is that correct?

15 **THE COMMISSIONER:** Yes.

16 **MR. LEE:** Okay. So this is 60. Okay.

17 --- **EXHIBIT NO./PIÈCE No P-60:**

18 Website Material - Code of Canon Law

19 **MR. SHERRIFF-SCOTT:** My apologies. I think
20 the Bishop has his own Code.

21 **BISHOP DUROCHER:** May I come back for a
22 moment to the previous question you asked me?

23 **MR. LEE:** Of course.

24 **BISHOP DUROCHER:** My mind has been working
25 since the question about -- the language in the auditing

1 report is a bit broader than the mandate of the auditing
2 report. It says:

3 "An act of sexual..."

4 You know,

5 "A written policy precluding transfer
6 of clerics who have committed an act of
7 sexual misconduct."

8 Our policy is about the sexual abuse of
9 children or sexual aggression of vulnerable adults. Right?

10 **MR. LEE:** Right.

11 **BISHOP DUROCHER:** So I'm taking this to be
12 referring to that kind of situation. The expression
13 "sexual misconduct" is much broader. It can include
14 inappropriate relationships of a consensual nature with
15 someone else. And in that situation, according to the
16 situation, there might be an occasion to have a person like
17 that transferred somewhere else.

18 So to say that I would not transfer somebody
19 who's committed an action of sexual misconduct is a bit too
20 broad. I would not transfer someone who's committed an
21 action of sexual abuse of a minor or of sexual aggression
22 of an adult.

23 It is just I want to make sure I did make an
24 oath to tell the truth here.

25 **MR. LEE:** Absolutely.

1 If we can turn to Exhibit 60 and just to ---

2 **THE COMMISSIONER:** Sixteen (16)?

3 **MR. LEE:** Sixty (60), the Canon Law section.

4 And what I was saying was that you had
5 mentioned earlier today that the Code of Canon Law doesn't
6 give specific directions on how to deal with allegations of
7 abuse. And what I have reproduced here is from Book 7 of
8 the Code of Canon Law, Part 4 entitled "The penal process,
9 Canons 1717 to 1731". What we have here, as I read it,
10 Chapter 1 of this Part 4 is titled "The Preliminary
11 Investigation". Chapter 2 is titled "The Development of
12 the Process" and Chapter 3 is entitled "Action to Repair
13 Damages".

14 If I can just -- I don't intend to go
15 through this in a tremendous amount of detail, but I want
16 to get an idea of what we are dealing with here. First is
17 Canon 1717; would that be paragraph 1?

18 **BISHOP DUROCHER:** Paragraph 1, yes.

19 **MR. LEE:** Paragraph 1. So the first
20 paragraph of this Canon is:

21 "Whenever an ordinary has knowledge,..."
22 -- which at least seems true of a dilect, which you
23 referred to as a crime earlier --

24 "...he is carefully to inquire personally
25 or through another suitable person

1 about the facts, circumstances, and
2 imputability, unless such an inquiry
3 seems entirely superfluous."

4 Then it goes on:

5 "Care must be taken so that the good
6 name of anyone is not endangered from
7 this investigation."

8 And paragraph 3 is:

9 "The person who conducts the
10 investigation has the same powers and
11 obligations as an auditor in the
12 process, the same person cannot act as
13 a judge in the matter if a judicial
14 process is initiated later."

15 And 1718 goes on:

16 "When it seems that sufficient evidence
17 has been collected, the ordinary is to
18 decide:..."

19 And there are three choices given there of
20 whether to declare penalty, whether to issue an extra
21 judicial decree initiating a judicial process.

22 It would seem to me, Bishop, that this sets
23 out a process to be used and does give some specific
24 directions on how to conduct an investigation in these
25 situations.

1 **BISHOP DUROCHER:** It determines how to
2 conduct a penal process not the investigation.

3 If the Bishop decides to go through a penal
4 process, for example, if the Bishop considers if there is
5 sufficient grounds to have this person "le renvoi de l'état
6 clerical"; the removal from the clerical state, he must go
7 through a penal process.

8 So then how do you do the penal process,
9 this is what all these Canons are about, is how the penal
10 process is conducted within the Church.

11 When I say that Canon Law doesn't give much
12 on how to conduct the investigation of an allegation, it's
13 Canon 1717 says it must be done, but it doesn't say how to
14 do it. That's my point. Canon 1717 says:

15 "When an ordinary..."

16 --- meaning the Bishop.

17 "... has knowledge, which at least seems
18 true, of a delict, he is carefully to
19 inquire personally or through another
20 suitable person about the facts,
21 circumstances, or imputability..."

22 But it doesn't say how to do that. That's
23 where a protocol is very important to clarify how to do
24 that.

25 **MR. LEE:** So the Canon goes so far as say

1 you need to do something.

2 **BISHOP DUROCHER:** You need to do something.

3 **MR. LEE:** But it ---

4 **BISHOP DUROCHER:** But then the rest of the
5 Canons are if you decide to do a penal process, this is how
6 you do a penal process. And, as I said, there has never
7 been a penal process in this Diocese.

8 **MR. LEE:** If an allegation is made and you
9 institute an investigation, one result of that
10 investigation apparently is you can decide to pursue the
11 penal process.

12 **BISHOP DUROCHER:** I could.

13 **MR. LEE:** What are the other options?

14 **BISHOP DUROCHER:** The other options to
15 proceed by administrative decree. Basically, at the end of
16 the investigation as a Bishop, I could giving the reasons -
17 - now, in administrative decrees, there are certain rules
18 to be followed, but basically I would proceed with the
19 power I have as a Bishop to impose certain sanctions. For
20 example, I could suspend someone from the exercise of his
21 Ministry; I could, as we were saying earlier, tell him that
22 he must live in a certain place. I could restrict the
23 offices that he can hold, et cetera. I can do all that
24 through administrative decree.

25 The one thing I cannot do is I cannot remove

1 him from the clerical state; I cannot remove him from his
2 state as a cleric within the church. For that to happen, I
3 must go through a penal process, except in this case now,
4 as I was saying since 19 -- since 2000 -- I made a mistake
5 -- since 2002, the Pope now is open to removing priests
6 from the clerical state through administrative decree
7 himself. So I could approach the Pope and ask him to do
8 this through administrative decree.

9 **THE COMMISSIONER:** So have you imposed any
10 administrative decrees since you've been here?

11 **BISHOP DUROCHER:** Yes. Yes. There's a
12 priest of this Diocese who was found guilty in a court in
13 Quebec of having abused a minor, and I've restricted his
14 faculties and his ability to exercise any type of ministry
15 at the present time.

16 **THE COMMISSIONER:** Okay. And generally
17 speaking, would that be noted -- I'm thinking in a
18 corporate world that would be put in the employee file.

19 **BISHOP DUROCHER:** Yes, it's put in the
20 employee file and since he lives in Montreal, I sent a copy
21 to the bishop of Montreal.

22 **THE COMMISSIONER:** Okay. Have you seen any
23 record of these administrative ---

24 **BISHOP DUROCHER:** Administrative decree?

25 **THE COMMISSIONER:** --- decree dealing with

1 priests by l'Évêque LaRocque? And you know, I don't ---

2 **BISHOP DUROCHER:** Yes.

3 **THE COMMISSIONER:** I don't want to know
4 about administrative decrees for other things other than
5 dealing with sexual abuse or ---

6 **BISHOP DUROCHER:** Bishop LaRocque in one
7 case I can think of asked the priest for his resignation
8 and the priest submitted his resignation. In two cases,
9 that's what was done. If the priest had not submitted his
10 resignation, then he could have used administrative decree
11 to move forward but here the priest accepted and submitted
12 his resignation.

13 **THE COMMISSIONER:** Go ahead. I guess I'll
14 go further then.

15 **BISHOP DUROCHER:** Yes.

16 **THE COMMISSIONER:** Did those two
17 resignations have anything to do with the subject matter
18 for which this Inquiry has been conducted?

19 **BISHOP DUROCHER:** Yes, yes, yes, absolutely.

20 **THE COMMISSIONER:** And we have -- have you
21 disclosed that to us?

22 **BISHOP DUROCHER:** Yes, yes.

23 **THE COMMISSIONER:** I don't know -- okay.

24 Great, thank you.

25 **MR. LEE:** Thank you.

1 Would you agree that the problem of sexual
2 abuse historically within the Catholic Church has been
3 significant enough that it's been addressed in part at
4 least in the canons by the Vatican, by regional
5 organizations like the CCCB and that all of those have
6 issued proclamations on the matter?

7 **BISHOP DUROCHER:** Pardon. What's your
8 question?

9 **MR. LEE:** Let me start over. We have
10 organizations like the Vatican which has as you said
11 instructions, proclamations, has a role of playing Canon
12 Law. We have institutions like the Ontario Conference of
13 Catholic Bishops, the Canadian Conference of Catholic
14 Bishops. And my question is would you agree that all of
15 these various bodies, let's say, have done work in relation
16 to sexual abuse within the church?

17 **BISHOP DUROCHER:** Certainly the Congregation
18 of the Doctrine of the Faith, the CCCB obviously continues
19 to do work in that area. The OCCB with its work on the
20 screening and the Diocese have all been involved with this
21 question, yes.

22 **MR. LEE:** When in your career or during your
23 education, whenever it may have been, did these issues
24 become known to you that this was an issue that was
25 important to the church?

1 **BISHOP DUROCHER:** I think everybody
2 recognizes in Canada it was the situation with Mount Cashel
3 and the Archdiocese of St. John's in Newfoundland which was
4 the kind of issue that threw this open.

5 **MR. LEE:** And you recall that being your
6 first realization that this was ---

7 **BISHOP DUROCHER:** Yes.

8 **MR. LEE:** --- this was a major problem?

9 **BISHOP DUROCHER:** Yes.

10 **MR. LEE:** There was no real discussion about
11 this on a large scale being an epidemic before that time as
12 far as you recall?

13 **BISHOP DUROCHER:** Not at all. And I still
14 would object to the use of the word epidemic.

15 **MR. LEE:** Right. I believe you said that
16 there was a -- there may be signs of an epidemic in the
17 United States, I believe, you said but not in Canada, sir.

18 **BISHOP DUROCHER:** I think Canada is a series
19 of local situations.

20 **MR. LEE:** You were questioned earlier today
21 -- I believe it was earlier today, it may have been
22 yesterday -- about the Southdown Treatment Centre in
23 Aurora, Ontario, and I think there was reference somewhere
24 to another treatment centre somewhere.

25 **BISHOP DUROCHER:** St. Luke's Centre in ---

1 **MR. LEE:** Has the Diocese of Alexandria-
2 Cornwall had occasion to send its priests to Southdown at
3 any point?

4 **BISHOP DUROCHER:** Definitely.

5 **MR. LEE:** Or any other one.

6 **BISHOP DUROCHER:** Yes.

7 **MR. LEE:** Has the Diocese sent priests to
8 Southdown to deal with issues related to the subject matter
9 of this Inquiry?

10 **BISHOP DUROCHER:** Yes, priests who have been
11 charged. One, two -- I know at least two who have been
12 charged who were sent to Southdown for evaluation and
13 assessment.

14 **MR. LEE:** Do you know of anyone who was not
15 charged that was sent to Southdown?

16 **BISHOP DUROCHER:** Oh, definitely, we have --
17 Southdown is a faculty -- an organization that can respond
18 to any psychological problems that a priest might have and
19 so, for example, priests who deal with -- struggle with
20 depression, clinical depression have been sent there for
21 evaluation and treatment.

22 **MR. LEE:** What about for sexual misconduct?

23 **BISHOP DUROCHER:** I already said yes to
24 that, yes.

25 **MR. LEE:** Right. And can I assume that

1 records or statistics or whatever you have in your files
2 about that have been produced to this Inquiry?

3 **MR. SHERRIFF-SCOTT:** We have certified
4 complete production of everything in our files.

5 **THE COMMISSIONER:** No, I understand that and
6 I'm not -- the problem is it hasn't been disclosed to
7 everyone and so I can understand they're going in a vacuum.
8 It's not a question of attacking your client's credibility
9 or anything like that. It's just to know.

10 **BISHOP DUROCHER:** Typically what is kept in
11 a priest's file ---

12 **MR. ENGELMANN:** If I can just have a moment,
13 I just want to explain. The Diocese's disclosure was not
14 part of the bulk disclosure that we gave to counsel in
15 July.

16 **THE COMMISSIONER:** Exactly.

17 **MR. ENGELMANN:** The disclosure was of
18 documents we had received earlier. So that's just for the
19 record.

20 **THE COMMISSIONER:** And I don't think Mr. Lee
21 is questioning that as well.

22 **MR. LEE:** No, and just to be clear, as you
23 know, Mr. Commissioner, they're issues of relevance. The
24 parties were asked to produce what was relevant. In my
25 estimation, this is something that is relevant. So I'm

1 putting the question to the Bishop asking whether or not
2 and if not, I would suggest to him that I feel it's
3 relevant and that it should be produced.

4 **THE COMMISSIONER:** Fine.

5 **BISHOP DUROCHER:** Yes. And what I wanted to
6 say was that typically what Southdown produces then is --
7 in a priest's file who has been to Southdown, what you will
8 find in the file is the admission, the fact that he's been
9 admitted and at the end, the fact that he's been released
10 and if there are any recommendations made by the staff of
11 Southdown to the Diocese, that will be found there. But
12 the documentation concerning the treatment, evaluation, et
13 cetera, is kept at Southdown.

14 **MR. LEE:** Thank you.

15 Mr. Commissioner, I again apologize for
16 being on lead time as you call it, but those are my
17 questions.

18 **THE COMMISSIONER:** That's fine. Tell me,
19 sir, would you consider that institution equivalent to like
20 an employee assistance program where people can go there
21 for all kinds of problems, the fact being though that it's
22 restricted for people of the church or different
23 ministries?

24 **BISHOP DUROCHER:** Yes, it's for priests and
25 religious women and men. Basically they deal with any

1 situation that is problematic in terms of psychological
2 issues, stress related issues, addictions. That would be
3 their field of expertise.

4 **THE COMMISSIONER:** Okay. Thank you.

5 Mr. Lee?

6 **MR. LEE:** Just one very brief follow-up
7 question on that; one.

8 In response to the question, you said that
9 it would be for priests or religious women or men. I
10 assume you mean religious in the context of some of these
11 documents and not parishioners who happen to be very
12 devote?

13 **BISHOP DUROCHER:** Religious orders.

14 **MR. LEE:** Perfect. Thank you.

15 **THE COMMISSIONER:** All right. Mr. Chisholm?

16 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

17 **CHISHOLM:**

18 **MR. CHISHOLM:** Good afternoon, Mr.
19 Commissioner.

20 **THE COMMISSIONER:** Good afternoon.

21 **MR. CHISHOLM:** Good afternoon, Bishop
22 Durocher. My name is Peter Chisholm. I'm counsel for the
23 Children's Aid Society.

24 If I could take you, please, to the document
25 From Pain to Hope and I'm sorry, I don't know what tab that

1 is -- Tab 26, and if I could take you to page 84 of 97 of
2 the electronic version, please? And down to the bottom of
3 the page, paragraph 17, Bishop Durocher, I believe that was
4 the paragraph that Mr. Manson put to you earlier today in
5 speaking in his cross-examination.

6 Do you recall that paragraph being put to
7 you?

8 **BISHOP DUROCHER:** Yes, yes.

9 **MR. CHISHOLM:** And at that point you
10 mentioned that you thought that this document made
11 reference to the seal of confession.

12 If I could take you back ten pages to page
13 74, please? And this would be appendix 3 and get you to
14 look at paragraph 3.

15 **BISHOP DUROCHER:** Yes.

16 **MR. CHISHOLM:** Is that the reference you
17 were making to the ---

18 **BISHOP DUROCHER:** Yes, I believe it was. I
19 don't know why I have in my mind that there is somewhere
20 else also that they speak about it within -- in the text
21 itself of the recommendations and not just in the
22 appendices but ---

23 **MR. CHISHOLM:** And perhaps or maybe but that
24 is -- the last sentence of paragraph 3 is the point that
25 you were putting to Mr. Manson, is that right, about the

1 seal of confession being inviolable?

2 **BISHOP DUROCHER:** Inviolable, yes. I was
3 just pointing out -- he was asking me if I was in
4 disagreement with From Pain to Hope, and I was saying that
5 the document does speak, I know, about the seal of
6 confession, and I agree with what it says about it. So
7 yes, I agree with this.

8 **MR. CHISHOLM:** Are you in a position to tell
9 us, Bishop Durocher, with respect to what the Code of Canon
10 Law would say about a priest who violates the seal of
11 confession or the law of the seal of confession?

12 **BISHOP DUROCHER:** A priest who violates the
13 sacramental seal is automatically excommunicated.

14 **MR. CHISHOLM:** So removed from his clerical
15 state?

16 **BISHOP DUROCHER:** No, no. Excommunication
17 means you do not have the right to receive communion or to
18 receive absolution in the sacrament of confession. It is
19 basically an obstacle impeding you from being able to enjoy
20 the celebration of the sacraments. Obviously for a priest
21 it would mean that you could not celebrate those sacraments
22 either.

23 **MR. CHISHOLM:** And in terms of the Code of
24 Canon Law, is there any worse punishment than
25 excommunication?

1 **THE COMMISSIONER:** There used to be death
2 but ---

3 **(LAUGHTER/RIRES)**

4 **BISHOP DUROCHER:** But that was the secular
5 arm that took care of that.

6 Excommunication is what we call a medicinal
7 punishment. It is meant to bring somebody to their senses,
8 to shake them up and to tell them what they're doing is
9 seriously and terribly wrong. It is not meant to be
10 permanent. The hope is that the situation will change and
11 the excommunication will be lifted. So it is not a -- in
12 church law, excommunication is not a kind of a sentence to
13 be -- that you have to live out. It is a process to bring
14 about a transformation in the situation.

15 **THE COMMISSIONER:** Would banishment -- it's
16 a temporary banishment though, isn't it?

17 **BISHOP DUROCHER:** Well, it's not banishment
18 from a place that I could do a penal precept, banishing
19 somebody from a place physically, but basically what you're
20 saying is that you can no longer participate fully in the
21 life of the church and its sacraments. There are very few
22 -- there are very few situations that call for automatic
23 excommunication. Another one is a bishop ordaining another
24 bishop without the permission of Rome would entail an
25 excommunication like that because you're creating a schism

1 within the church.

2 So it is reserved to the most serious
3 situations, yes.

4 **MR. CHISHOLM:** And finally, Bishop Durocher,
5 if I could take you to the issue of the duty to report as
6 set out in the Ontario legislation.

7 If we have a situation where a priest hears
8 a confession that would give that priest reasonable grounds
9 to suspect that a child is in need of protection, assuming
10 even that on a case-by-case basis that that religious
11 communication would be deemed to be privileged and given
12 the state of the *Child and Family Services Act* that states
13 that notwithstanding that privilege, the duty to report
14 still exists, what would the Code of Canon Law instruct a
15 priest to do in those circumstances?

16 **BISHOP DUROCHER:** If I understand your
17 question, you're asking what the Code of Canon Law says to
18 the priest. Whatever the civil law, the Code of Canon Law
19 says you cannot reveal what is said in the sacrament of
20 confession. But as I stated earlier, the sacrament of
21 confession is also meant to be a transformative process and
22 so it can be used to bring somebody who has broken the law
23 to take the steps necessary to change that situation.

24 **MR. CHISHOLM:** But when given -- when a
25 priest is given a choice between the Code of Canon Law and

1 the *Child and Family Services Act*, the Code of Canon Law
2 would tell the priest that it prevails?

3 **BISHOP DUROCHER:** Absolutely, yes.

4 **MR. CHISHOLM:** Thank you, Bishop Durocher.
5 Those are my questions.

6 **BISHOP DUROCHER:** You're welcome.

7 **THE COMMISSIONER:** Probation and
8 Corrections?

9 **MR. ROSE:** No questions, sir.

10 **THE COMMISSIONER:** Thank you.

11 Ms. Im? Is Ms. Im in this afternoon?

12 **MS. IM:** No questions. Thank you.

13 **THE COMMISSIONER:** Mr. Hannah-Suarez.

14 **MR. HANNAH SUAREZ:** No questions. Thank
15 you.

16 **THE COMMISSIONER:** All right.

17 Maître Boivin.

18 **MR. BOIVIN:** No questions. Thank you.

19 **THE COMMISSIONER:** All right.

20 Where are we now? OPP, Diane Lahaie.

21 **MS. LAHAIE:** Just a few questions, Mr.
22 Commissioner.

23 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

24 **LAHAIE:**

25 **MS. LAHAIE:** Good afternoon, Bishop

1 Durocher.

2 **BISHOP DUROCHER:** Good afternoon.

3 **MS. LAHAIE:** My name is Diane Lahaie and I'm
4 on for the OPP today.

5 I just wish to return to the Father
6 Deslauriers situation briefly, if I may. He was, of
7 course, found guilty of sexual crimes in 1985, and we've
8 reviewed that. You recall that?

9 **BISHOP DUROCHER:** That's right.

10 **MS. LAHAIE:** Yes.

11 And that involved the sexual abuse of
12 teenage boys in this community?

13 **BISHOP DUROCHER:** That's correct.

14 **MS. LAHAIE:** And that resulted in ex-
15 cardination from this Diocese?

16 **BISHOP DUROCHER:** It resulted, first of all,
17 in a sentence where he was -- where the judge put him -- I
18 don't know the technical languages, but in probation under
19 the care of the Bishop of Gatineau-Hull.

20 **MS. LAHAIE:** And so it's your understanding
21 that the condition that he be under the direction of that
22 particular bishop was a condition of probation?

23 **BISHOP DUROCHER:** Yes.

24 **MS. LAHAIE:** Have you come across that
25 documentation in your preparation for today? That

1 documentation, that particular probation order, is that
2 kept in your files?

3 **BISHOP DUROCHER:** No, I don't have that.

4 **MS. LAHAIE:** All right.

5 And do you know the reason why that
6 jurisdiction or that particular bishop was selected?

7 **BISHOP DUROCHER:** The Bishop of Hull at the
8 time, Adolphe Proulx, had been the Bishop of Alexandria-
9 Cornwall previously to Bishop LaRocque, and he knew Father
10 Deslauriers. He had ordained him as a priest, and so I
11 imagine he saw himself as a possible supervisor for him in
12 this situation.

13 **MS. LAHAIE:** It wasn't because there were
14 any specific programs or anything which could be of
15 specific assistance to him in that jurisdiction?

16 **BISHOP DUROCHER:** Not that I'm aware of.

17 **MS. LAHAIE:** And would there be any
18 documentation in his employment file, which would have
19 accompanied him ---

20 **THE COMMISSIONER:** Just finish the question.
21 Go ahead. Sorry.

22 **MS. LAHAIE:** Thank you.

23 Would there have been any documentation,
24 which could be disclosed that would have accompanied him in
25 his employment file to the new diocese, the new

1 jurisdiction?

2 **THE COMMISSIONER:** Mr. Scott, you were
3 getting up?

4 **MR. SHERRIFF-SCOTT:** I thought we were
5 dealing with policies, not specific cases. I've been
6 admonished for that in the past and ---

7 **THE COMMISSIONER:** Well, not admonished.

8 **MR. SHERRIFF-SCOTT:** Mildly rebuked, and I
9 was just thinking that ---

10 **THE COMMISSIONER:** No need to ---

11 **MR. SHERRIFF-SCOTT:** --- what's sauce for
12 the goose is sauce for the gander. The Deslauriers matter
13 will not doubt come up with Bishop LaRocque, who is the one
14 that handled it. So I think we should be sticking to our
15 policies and not specific cases.

16 **THE COMMISSIONER:** All right. Thank you.
17 Any comments?

18 **MS. LAHAIE:** The only comment -- I know
19 Bishop LaRocque is approximately 80 years of age at this
20 point, and I didn't know whether it was the intention to
21 have him called at this inquiry, and I didn't know whether
22 there would be any other opportunity to question any other
23 witnesses in that regard.

24 **THE COMMISSIONER:** M'hm.

25 **MS. LAHAIE:** But I'll perhaps reserve that

1 question and hopefully we will hear from someone in that
2 regard.

3 Was there any -- I'm still going to, if I
4 may stay on that topic slightly -- would there have been
5 any committee or policies in place which would have -- from
6 this jurisdiction -- to put the people of the new
7 jurisdiction or the new diocese on notice about the
8 specific allegations and crimes, which had been committed
9 by Father Deslauriers?

10 **BISHOP DUROCHER:** There was no policy
11 existent in the Diocese at that time.

12 **MS. LAHAIE:** And so no documentation that
13 you've come across where anyone from the new jurisdiction
14 would have been put on notice about the crimes?

15 **BISHOP DUROCHER:** That documentation would
16 be in their files, not mine.

17 **THE COMMISSIONER:** We're talking about
18 policy though, aren't we?

19 **MS. LAHAIE:** Yes, policy, any type of notice
20 from this Diocese saying to the people of the new
21 jurisdiction, "These are the crimes that this individual
22 has committed and has been found guilty of."

23 **MR. SHERRIFF-SCOTT:** Mr. Commissioner ---

24 **THE COMMISSIONER:** Yes.

25 **MR. SHERRIFF-SCOTT:** --- in our production

1 of disclosure, there is a record of the criminal proceeding
2 in which the former Bishop Adolphus Proulx participated at
3 the sentencing phase in which these issues were discussed
4 about proper disposition of the convicted person, where he
5 was to go. The individual, who is the Bishop, therefore,
6 was privy to all of this and he had participated with the
7 judge, and the judge had actual intercourse verbally with
8 the Bishop. So there is no question about that. We're were
9 operating in a vacuum here on a specific case, because it's
10 in our disclosure.

11 **MS. LAHAIE:** I was asking not whether the
12 information came to the Bishop of that jurisdiction but the
13 people of that jurisdiction, and I know that that
14 particular Bishop is now deceased, I believe. And so we
15 won't be hearing from him in this inquiry.

16 I was wondering whether there was any notice
17 given to the people of Sainte-Adèle, where I understand
18 Father Deslauriers continued his duties as a parish priest.

19 **THE COMMISSIONER:** Well, that's another
20 specific question dealing with specific names. I thought
21 you were talking about were there any policies at the time
22 dealing generally with that kind of thing. If you're going
23 to ask about Father Deslauriers, I'll ask you to keep that
24 for later.

25 **MS. LAHAIE:** Thank you.

1 The outline at page 5, Bishop Durocher,
2 speaks of the diocesan youth ministry provides services to
3 diocesan youth, including education and religious services.

4 Does that still occur?

5 **BISHOP DUROCHER:** Yes.

6 **MS. LAHAIE:** And in the late '70s and early
7 '80s, there was a specific program directed at youth, and
8 I'm wondering whether you're aware of that, which was R³
9 for the French-speaking individuals. That would be spelled
10 R³ ---

11 **BISHOP DUROCHER:** Yes.

12 **MS. LAHAIE:** --- and the equivalent program
13 for the English-speaking Catholic youths of this community
14 was Core.

15 **BISHOP DUROCHER:** Yes.

16 **MS. LAHAIE:** Is that correct?

17 And I understand that the leader of the
18 program for the francophone youths of this community was
19 Father Deslauriers. Are you aware of that?

20 **THE COMMISSIONER:** Are you going to object?

21 **MR. SHERRIFF-SCOTT:** Yes, I will object
22 again.

23 **THE COMMISSIONER:** Why are we doing this?

24 **MS. LAHAIE:** I just -- with respect to --
25 we're discussing policies and screening. I think it's

1 relevant and I don't think that it's in any other materials
2 that Father Deslauriers was the leader of that particular
3 program for the youth and that Father MacDonald was the
4 leader of that program for the English-speaking youths of
5 the community and whether there were policies or screening
6 processes in place with respect to the selection of who
7 would head up those.

8 **THE COMMISSIONER:** Well, regardless of the
9 names, I think you can get around that by saying,
10 "Monseigneur, in the 1980s there were these two groups"
11 without mentioning these gentlemen and saying, "Were there
12 any protocols involved in how you go about selecting them?"
13 So we can do it that way. Why mention these people?

14 **MS. LAHAIE:** I apologize, Mr. Commissioner,
15 but I'm not the first person to mention those names today
16 in questioning, and I believe Mr. Engelmann, in fact, began
17 with examination-in-chief mentioning specific names. And
18 so I'm ---

19 **THE COMMISSIONER:** Well, nobody objected to
20 him.

21 **(LAUGHTER/RIRES)**

22 **THE COMMISSIONER:** No, but I think we're
23 getting far afield now, seriously. So reframe your
24 question, and the part about Father MacDonald and Father
25 Deslauriers can be dealt with at a later date.

1 So bottom line is back in the '80s, were
2 there any -- there were these youth groups, one in French
3 and one in English, and were there any protocols set out on
4 how to go about choosing which priest would be taking care
5 of the group?

6 **BISHOP DUROCHER:** I'm not aware that there
7 were any specific protocols for that position.

8 **THE COMMISSIONER:** All right.

9 **MS. LAHAIE:** And do those religious retreats
10 still exist today for young people in this community?

11 **BISHOP DUROCHER:** Not those specifically,
12 but similar ones, yes.

13 **MS. LAHAIE:** In -- let me just have a
14 moment. In the outline at page 15, we see on:

15 "September 25 1986 - The Presbyteral
16 Council discusses establishing a
17 diocesan committee regarding
18 allegations of abuse."

19 I take it that that is the first time you
20 see in the documentation that there is talk of establishing
21 a committee with respect to that?

22 **BISHOP DUROCHER:** That's correct.

23 **MS. LAHAIE:** And that would be -- the
24 impetus for that, I believe you indicated to Mr. Engelmann
25 was the Father Deslauriers situation?

1 **BISHOP DUROCHER:** That's right.

2 **MS. LAHAIE:** Okay. And in 1989, the
3 principles and procedures for clergy in difficulty at the
4 last bullet, that is determined to be the starting point
5 for establishing the Diocese's response to allegations of
6 abuse?

7 **BISHOP DUROCHER:** As I said, the status of
8 that document is not clear to me. Bishop LaRocque later
9 refers to it as a draft policy. In the minutes it speaks
10 about a document, which is his personal notes from a
11 meeting of the OCCB. So I'm not sure what the exact status
12 of that document is, but it is the first document
13 addressing those issues that we have.

14 **MS. LAHAIE:** And again, we still don't have
15 the committee regarding allegations of abuse at that point?

16 **BISHOP DUROCHER:** That's correct.

17 **MS. LAHAIE:** And if we turn to the next page
18 of the outline on May 29th, 1990, we see again a reference
19 to the Presbyteral Council further discussing establishing
20 a diocesan committee regarding allegations of abuse. So
21 there's still no committee in place at that point?

22 **BISHOP DUROCHER:** That's correct.

23 **MS. LAHAIE:** And it is further discussed in
24 1991, according to the minutes, three bullets further, and
25 again there's still no committee established?

1 **BISHOP DUROCHER:** I can't remember when they
2 actually set it up. It was discussed at a number of
3 meetings and eventually they did act on it.

4 **MS. LAHAIE:** And so although they first
5 raise it as being a need to establish a committee in 1986,
6 it's not until May 19th, 1992 that a committee is actually
7 struck; is that correct?

8 **BISHOP DUROCHER:** They decided to wait, once
9 the CCCB had started its work, to allow the CCCB to produce
10 its document. So that was two years. So that explains two
11 years of that chunk.

12 I would like to point out that the first
13 time it was discussed was basically a minute in the
14 meeting, meaning that some priests brought this up. It
15 does not mean that there was a decision made to set up a
16 committee and then the decision was postponed. It was
17 discussed as a possible need.

18 **MS. LAHAIE:** On a number of occasions at
19 various meetings, until finally in '92 it's struck?

20 **BISHOP DUROCHER:** That's right. Once the
21 CCCB had published its document, that they felt they could
22 go ahead and work based on that.

23 **MS. LAHAIE:** I'll refer you as well to the
24 page 16, the third bullet in October 1990:

25 "At the request of the local CAS,

1 diocesan..."

2 BISHOP DUROCHER: I'm sorry ---

3 MS. LAHAIE: I'm sorry. Page 16, third
4 bullet.

5 BISHOP DUROCHER: Yes.

6 MS. LAHAIE: "At the request of the local
7 CAS, diocesan priests speak to the
8 issue of sexual abuse during their
9 homilies. This was preceded by a
10 formation day..."

11 I take it that's training?

12 BISHOP DUROCHER: Yes.

13 MS. LAHAIE: "...attended by the priests."

14 Are there any materials available that were
15 distributed to the priests which could be disclosed with
16 respect to that training day?

17 BISHOP DUROCHER: I can't remember if this
18 is the -- is this the training day that Father Loftus led?
19 I can't remember.

20 MR. SHERRIFF-SCOTT: No, no material.

21 BISHOP DUROCHER: So there is no material.

22 MR. SHERRIFF-SCOTT: No, there is no
23 material.

24 MS. LAHAIE: The last bullet on that page,
25 Bishop Durocher, May 19th, 1992, there are the guidelines

1 for the steps to follow which are enumerated. Just the
2 headings are given, and they refer back to Tab 25. The
3 Guidelines on Sexual Abuse by Priests, that's the undated
4 document?

5 **BISHOP DUROCHER:** Yes.

6 **MS. LAHAIE:** I just want to clarify,
7 paragraph (e) speaks of notification of the authorities in
8 your outline, and I just want to clarify that the
9 authorities portion does not appear in the document at Tab
10 25. It's simply notification at the second page, and I
11 just want to confirm that that's just referring to
12 notification of CAS. At no point is there any notification
13 of authorities, meaning police. Would you agree with that?

14 **BISHOP DUROCHER:** Well, it seems to me that
15 the designated person is to:

16 "Ascertain that there are facts which
17 support a 'reasonable motive' for the
18 complainant according to the laws on
19 the protection of youth."

20 As was pointed out, the French one reads
21 better.

22 I think what that means is that the
23 delegate, if he sees that there are reasonable motives, it
24 implies that he is going to advise the CAS.

25 **MS. LAHAIE:** I don't think we're looking at

1 the same document. Are you at Tab 25?

2 **BISHOP DUROCHER:** Tab 25, Phase 1, (b),
3 "Objectives of the Designated Person"?

4 **MS. LAHAIE:** No, I think the headings (a),
5 (b), (c), (d), (e), (f) and (g) at the outline refer to the
6 different phases ---

7 **BISHOP DUROCHER:** I'm sorry, yes.

8 **MS. LAHAIE:** And so (e) being the equivalent
9 of "V", Roman Numeral V, at page 2 ---

10 **BISHOP DUROCHER:** Equivalent of "V" at page
11 2.

12 **THE COMMISSIONER:** "Notification", "Phase
13 V"; is that what you mean?

14 **MS. LAHAIE:** Yes.

15 **THE COMMISSIONER:** M'hm.

16 **BISHOP DUROCHER:** Yes.

17 **MS. LAHAIE:** Although the outline says
18 notification of the authorities as being part of the
19 guidelines, if we turn to the document itself, it's simply
20 entitled "Notification", and authorities referred to in
21 there are authorities at the CAS and not police.

22 **BISHOP DUROCHER:** Oh yes, yes, yes, it's the
23 CAS that's being ---

24 **MS. LAHAIE:** In your preparation for your
25 testimony here today, did you come across, Bishop Durocher,

1 any records or documents attesting to any financial
2 payments or settlements made with complainants alleging
3 sexual assaults?

4 **MR. SHERRIFF-SCOTT:** Objection.

5 **THE COMMISSIONER:** Well, let her finish her
6 question.

7 What did you say, any -- repeat the
8 question.

9 **MS. LAHAIE:** Any records or documents of
10 financial settlements made with any complainants alleging
11 sexual assaults?

12 **MR. SHERRIFF-SCOTT:** We're here -- my
13 understanding of this process is that counsel and the
14 Commission have agreed that this will be a policy- specific
15 matter and that these kinds of aggressive cross-
16 examinations will not take place at this moment in time.
17 If there's later opportunities for the exploration of
18 settlements, the documents have been disclosed.

19 **THE COMMISSIONER:** It's not aggressive
20 cross-examination.

21 **MR. ENGELMANN:** I take issue with the
22 aggressive comment. I don't think it's an appropriate
23 comment.

24 However, having said that, what we have done
25 for all parties is to suggest that the questions of the

1 witnesses who are here to do corporate policy
2 presentations, such as Bishop Durocher, should be limited
3 to questions on policies and procedures, and some of the
4 questions have been directed to institutional response.

5 And I can assure counsel that, for example,
6 some of her concerns about whether we're calling witnesses
7 to deal with specific issues will be addressed and we will
8 be calling those witnesses that there were concerns about
9 so that we can deal with the specific institutional
10 responses. But I too share at least a part of Mr.
11 Sherriff-Scott's concern about where the cross-examination
12 is going.

13 **MR. SHERRIFF-SCOTT:** I was up more than once
14 all day -- once or twice all day, I've been up four times
15 already, and so the admonishment isn't working. So if I
16 just ask that this rule be respected from now on so we can
17 get to the end of this in accordance with what we've all
18 agreed on.

19 **MS. LAHAIE:** I wasn't -- I understand what
20 Mr. Engelmann is saying with respect to the one complainant
21 that we're all aware of in the disclosure.

22 **THE COMMISSIONER:** M'hm.

23 **MS. LAHAIE:** I was referring to in
24 discussions with Mr. Carrol in preparation for this
25 questioning. I was referring to Mr. Carrol also has the

1 same concerns, whether there were other financial
2 settlements with complainants that we may or may not hear
3 from. In his preparation for today, did he examine
4 financial records which would attest to other financial
5 settlements, not necessarily that particular individual but
6 others?

7 **MR. SHERRIFF-SCOTT:** Well, isn't that the
8 same question, Mr. Commissioner?

9 **THE COMMISSIONER:** Okay.

10 **MR. SHERRIFF-SCOTT:** My point just
11 underscored itself.

12 **THE COMMISSIONER:** All right.

13 No, you'll have a chance to ask those
14 questions perhaps even of Bishop LaRocque in another
15 setting. I think the ground rules were set right off the
16 beginning and I think by and large we've all respected
17 them, except maybe from Mr. Sherriff-Scott on his -- no,
18 no, I'm just kidding.

19 **(LAUGHTER/RIRES)**

20 **THE COMMISSIONER:** I'm just kidding you.
21 It's getting late.

22 But no, please don't do that. Let's keep it
23 to the straight and narrow, policies, that kind of thing.
24 If we have to call Bishop Durocher, back we will.

25 **MS. LAHAIE:** And may I inquire whether that

1 is the intention, whether Bishop Durocher will be recalled
2 for that particular line of questioning, because otherwise
3 I would submit that this would be the appropriate time to
4 request it.

5 **THE COMMISSIONER:** No, it's not. I suspect
6 that Bishop LaRocque might be called, and if he doesn't
7 have any memory or if there's something he's missing in
8 his, then I'm sure that we'll call on Bishop Durocher. And
9 so those things are going to be examined at some point. So
10 you'll get your chance.

11 **MS. LAHAIE:** Thank you.

12 Those are all my questions, Mr.

13 Commissioner.

14 Thank you, Your Excellency.

15 **THE COMMISSIONER:** Okay. All right.

16 So now we're going to Mr. Sherriff-Scott
17 after the break.

18 **THE REGISTRAR:** The OPPA.

19 **THE COMMISSIONER:** Pardon me? Oh, I'm
20 sorry, look at that. We were going to let the OPPA off the
21 hook here.

22 Mr. Carrol.

23 **MR. CARROL:** The assurances you've just
24 given about ---

25 **THE COMMISSIONER:** No, you have to come to

1 the microphone otherwise they'll just hear me.

2 **MR. CARROL:** With the assurances you've just
3 given about witnesses to be produced, I have no questions,
4 Mr. Commissioner.

5 **THE COMMISSIONER:** Now, I'm saying that
6 there will be a forum in which to ask those questions.

7 **MR. CARROL:** And witnesses to ask them of,
8 is what I understood you to say.

9 **THE COMMISSIONER:** Yes. Yes.

10 **MR. CARROL:** Thank you.

11 **THE COMMISSIONER:** Mr. Engelmann, because it
12 seems I'm getting attributed a lot of things and I want to
13 start disclaiming a little bit.

14 **MR. ENGELMANN:** There's a time and a place
15 for everything. This is not the time nor the place. We
16 have, and I hope, and I just stress this point time and
17 time again, that I would invite counsel for any and all
18 parties to provide me and my team with suggestions for
19 witnesses we should call, whether they be victims, alleged
20 victims, perpetrators, alleged perpetrators, any
21 institutional witnesses, whether they be retired, whether
22 they be current or otherwise, and we will deal with that in
23 the context of the substantive hearing. We are here to
24 hear the Diocese's corporate policy presentation. Bishop
25 is doing that, and hopefully we can wrap it up very

1 quickly.

2 **THE COMMISSIONER:** Well, we have all the
3 time in the world, but because it is getting late we'll
4 take 15 minutes and refresh, and then if you don't mind
5 we'll come back. All right. Thank you.

6 **THE REGISTRAR:** Order; all rise. À l'ordre;
7 veuillez vous lever.

8 The hearing will reconvene at 5:25.

9 --- Upon recessing at 5:12 p.m./

10 L'audience est suspendue à 17h12

11 --- Upon resuming at 5:29 p.m./

12 L'audience est reprise à 17h29

13 **THE REGISTRAR:** This hearing of the Cornwall
14 Public Inquiry is now in session. Please be seated.
15 Veuillez vous asseoir.

16 **THE COMMISSIONER:** So Mr. Sherriff-Scott, I
17 understand that there was a poll taken and if we finish
18 before 7:00 you will not have to pay for supper and wine
19 for everyone.

20 **MR. SHERRIFF-SCOTT:** Well, I could put that
21 on the firm tab. It sounds tempting.

22 (LAUGHTER/RIRES)

23 **THE COMMISSIONER:** All right.

24 **MR. SHERRIFF-SCOTT:** Otherwise it might be
25 hamburgers on the barbeque. No, I'll endeavour to get

1 through this and I will before that and a long way, I'm
2 sure.

3 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
4 SHERRIFF-SCOTT:

5 MR. SHERRIFF-SCOTT: Bishop, there's a
6 number of sort of disjointed points, but they arise out of
7 various questions that have been handled. So I will sort
8 of work backwards a bit and then start forwards.

9 My friend Mr. Chisholm talked about the
10 implications of violating the sacrament, and in addition to
11 excommunication, at Tab 50.1 which was the document you
12 referred him to and Mr. Lee to in terms of a number of
13 individual "delict" as you call them, which are reserved
14 onto the Congregation of the Doctrine of Faith, if you
15 could turn to page 3 of 11 down to Article 3(3). There's a
16 reference to the direct or indirect violation of the
17 sacrament seal.

18 Would this then be an example of something
19 else reserved unto that congregation for possible
20 adjudication?

21 BISHOP DUROCHER: That's correct.

22 MR. SHERRIFF-SCOTT: And so that could
23 include laicization or a reduction from the Church?

24 BISHOP DUROCHER: Eventually it could, yes.

25 MR. SHERRIFF-SCOTT: Okay. And that's the

1 kind of process that's envisaged as being reserved to that
2 congregation?

3 **BISHOP DUROCHER:** That's correct.

4 **MR. SHERRIFF-SCOTT:** Now, there were many
5 questions on the question -- on the issue of the transfer
6 of a priest which you described in the language of
7 incardination and excardination.

8 Before a priest is excardinated, must you
9 have somewhere for him to go?

10 **BISHOP DUROCHER:** Yes. A priest cannot be
11 excardinated without being incardinated. If I give a
12 decree of excardination, it only becomes effective when an
13 equivalent decree of incardination is given by the
14 receiving party.

15 **MR. SHERRIFF-SCOTT:** Is it a common practice
16 or is it unusual?

17 **BISHOP DUROCHER:** It's relatively unusual.
18 I've done two since my four years here. Basically, one
19 member was -- became a member of a religious order, and
20 another priest who had been exercising ministry in another
21 diocese decided to belong to that diocese.

22 **MR. SHERRIFF-SCOTT:** So it's not a routine
23 administrative matter?

24 **BISHOP DUROCHER:** No.

25 **MR. SHERRIFF-SCOTT:** Okay. So on the

1 receiving end, a fellow bishop, if I can use that
2 expression, would you have to inquire of that individual
3 whether there is a willingness to take on the priest?

4 **BISHOP DUROCHER:** Typically I would not be
5 the one doing that. It would be the priest who is
6 requiring excardination from the diocese and incardination
7 into another diocese or a religious order. So it would be
8 that priest that would have approached the bishop or the
9 superior general and requested the incardination.

10 **MR. SHERRIFF-SCOTT:** What would be the
11 practice in terms of an inquiry back to you?

12 **BISHOP DUROCHER:** The bishop or superior
13 general who would be inquiring then would contact me to
14 have the relevant documentation about this person's
15 background.

16 **MR. SHERRIFF-SCOTT:** And since it's not
17 routine, what kind of inquiries are made as a matter of
18 practice?

19 **BISHOP DUROCHER:** Basically, they ask for
20 the whole file, the whole personnel file of the priest.

21 **MR. SHERRIFF-SCOTT:** All right.

22 And is there a practice of vouch-safeing the
23 individual that goes from one diocese to another? In other
24 words, dealing with their background.

25 **BISHOP DUROCHER:** Writing a letter

1 testifying to the person's upright character ---

2 **MR. SHERRIFF-SCOTT:** Or not.

3 **BISHOP DUROCHER:** Or not, yes.

4 **MR. SHERRIFF-SCOTT:** Okay. The question of
5 the -- you can turn to Tab 2 at page 4 in Volume 1.

6 I just want to alert the Commissioner to the
7 points that I was making about the *Crimen Sollicitationis*
8 document as made by Reverend Morrissey are contained here at
9 "G" and following. I'm at Tab 2, page 4, March 22nd, 2007 -
10 - or six it should be, report of Reverend Morrissey.

11 **BISHOP DUROCHER:** It's not 1.2?

12 **MR. SHERRIFF-SCOTT:** No.

13 **BISHOP DUROCHER:** Because there are two 2s,
14 sorry.

15 **MR. SHERRIFF-SCOTT:** I'm sorry. It's up on
16 the screen, Bishop. It's right in front of you there on
17 the screen.

18 **BISHOP DUROCHER:** Yes. Yes.

19 **MR. SHERRIFF-SCOTT:** Can you just look at
20 that?

21 **BISHOP DUROCHER:** Yes.

22 **MR. SHERRIFF-SCOTT:** Are those Reverend
23 Morrissey's points about the authenticity of the document
24 and otherwise in terms of its promulgation?

25 **BISHOP DUROCHER:** That's correct. Those are

1 Reverend Morrisey's comments about *Crimen Sollicitationis*.

2 MR. SHERRIFF-SCOTT: So he indicates it was
3 never officially promulgated in the AAS, as you referred to
4 it.

5 BISHOP DUROCHER: Correct.

6 MR. SHERRIFF-SCOTT: Okay. Thank you.

7 If I can ask you to turn to Tab 25, which is
8 the Father Denis Vaillancourt document, there was a line of
9 questioning put to you by Mr. Lee in terms of the
10 difference between this and the 1995 one-page document
11 which was a collaborative effort with the OPP and CAS.
12 They alerted you to paragraph "C". Do you see that?

13 BISHOP DUROCHER: A designated person from
14 the complainant?

15 MR. SHERRIFF-SCOTT: Yes. And there was a
16 suggestion that what this meant, if I'm not incorrect, was
17 that the designate would simply advise the victim or
18 potential victim that they should notify the CAS as opposed
19 to the designate doing that?

20 BISHOP DUROCHER: That's right.

21 MR. SHERRIFF-SCOTT: Can I alert you to the
22 next page under notification 1(a).

23 BISHOP DUROCHER: Yes.

24 MR. SHERRIFF-SCOTT: Is that consistent with
25 the line of questioning you got?

1 **BISHOP DUROCHER:** The designated person
2 notifies the CAS of the case and follows its directives.

3 **MR. SHERRIFF-SCOTT:** All right.

4 **BISHOP DUROCHER:** And if I can add that that
5 is exactly what the present policy does. Both the
6 designate advises the CAS and tells the person who is
7 bringing the complaint to advise the CAS also.

8 **MR. SHERRIFF-SCOTT:** And so to the extent
9 there is a difference between this and 1995, 1995 says it's
10 the first thing you do, whereas that may not be clear from
11 this in terms of ---

12 **BISHOP DUROCHER:** That's correct.

13 **MR. SHERRIFF-SCOTT:** --- this rank of
14 priorities.

15 **BISHOP DUROCHER:** Correct.

16 **MR. SHERRIFF-SCOTT:** Can I ask you, in terms
17 of the policy of the Diocese as it now exists pertaining to
18 sexual assault that Commission counsel took you through to
19 some great extent, what training and education, say, at the
20 parish level has gone on, or what decisions have there been
21 in connection with that?

22 **BISHOP DUROCHER:** With the present policy?

23 **MR. SHERRIFF-SCOTT:** Yes.

24 **BISHOP DUROCHER:** The present policy was
25 sent to all the parish councils for discussion, for study

1 and discussion following work with the parish priests
2 themselves, who then led their parish councils through that
3 so that each of the parish councils could respond to the
4 proposed protocol. And once the protocol was put into
5 place, I would say the next step was making the protocol
6 known publicly, which is that flyer that we distributed
7 through the parishes.

8 **MR. SHERRIFF-SCOTT:** So the flyers are
9 delivered to each individual parish?

10 **BISHOP DUROCHER:** That's correct.

11 **MR. SHERRIFF-SCOTT:** Through the parish
12 councils?

13 **BISHOP DUROCHER:** Through the parish
14 councils, yes.

15 **MR. SHERRIFF-SCOTT:** Okay.

16 **BISHOP DUROCHER:** Through the parish
17 priests, actually.

18 **MR. SHERRIFF-SCOTT:** All right.

19 **THE COMMISSIONER:** Was there any discussion
20 on the Sunday homily?

21 **BISHOP DUROCHER:** At the time of the -- as
22 we were promulgating the document during that lent, there
23 was an official pastoral letter that I wrote on this issue
24 which was read in all the parishes, and the priests then
25 themselves committed themselves to the implementation of

1 this in front of their parishioners.

2 **THE COMMISSIONER:** M'hm.

3 **BISHOP DUROCHER:** So the existence of the
4 policy was made very clear to the parishioners.

5 **MR. SHERRIFF-SCOTT:** And on the subject of
6 the policy as it presently exists, you have the committee
7 members, which is no longer the Ad Hoc Committee. That was
8 the committee that drafted and worked through developing
9 and now it's the Advisory Committee and the Victims Care
10 Group. What kind of training, if any, have those
11 individuals got in terms of their work dealing with
12 handling of allegations?

13 **BISHOP DUROCHER:** When that committee was
14 formed there was a formation training session with the
15 Children's Aid Society, with the police, and Reverend
16 MacNeil came back to look at canonical and ethical
17 implications of it and worked some case studies with them.

18 **MR. SHERRIFF-SCOTT:** Thank you very much.
19 And that was done with the Advisory Committee. Now, just
20 in terms of the other members, there is Doctor Legault and
21 I wonder if we can just indicate his background briefly for
22 the Tribunal in terms of the person. As your delegate,
23 essentially he runs the Committee and is the point person
24 responsible.

25 Why is it that a delegate who is a lay

1 person was chosen versus a priest?

2 **BISHOP DUROCHER:** We discussed this at the
3 Priests Council. The priests felt strongly that for the
4 credibility of the work of the Committee, it should be a
5 lay person, so somebody who is not so closely identified
6 either with the priests or with the clergy. So we went
7 with a lay person.

8 Do you have the tab number of Doctor
9 Legault's ---

10 **MR. SHERRIFF-SCOTT:** Yes, I do. I was going
11 to refer you to that next. That's Tab 42.1 in Volume 2.

12 Perhaps you could just help us understand
13 why he was chosen and what particular skills he brings to
14 bear for the Committee as your designate?

15 **BISHOP DUROCHER:** Doctor Legault is a well-
16 known paediatrician here in Cornwall. He was just retiring
17 at the time that we were setting up this committee. He had
18 been for 10 years the one responsible for the handling of
19 all complaints to the Hôtel Dieu Hospital. So he had
20 extensive practical hands-on experience with the issue of
21 receiving complaints and dealing with them.

22 His work as a paediatrician brought him into
23 close contact with children victims of sexual abuse. So
24 those were some of the reasons that we asked him to take
25 this position and the fact that he's fluently bilingual.

1 **MR. SHERRIFF-SCOTT:** Does he have any other
2 particular committee experience that bears on the question
3 of sexual abuse and policies pertaining to it?

4 **BISHOP DUROCHER:** Since his nomination in
5 Ontario, the OCCB has set up a Professional Conduct
6 Committee of which Doctor Legault is a member. So he meets
7 regularly with other diocesan directors or delegates to
8 discuss issues of ongoing policy improvement and
9 implementation.

10 **MR. SHERRIFF-SCOTT:** Okay. So now, in terms
11 of what you did with this policy before you issued your
12 seal or your edict to promulgate it as a policy of the
13 Diocese, did you send it to anyone with any Canon Law
14 experience beside Reverend MacNeil?

15 **BISHOP DUROCHER:** Yes. I sent it to Father
16 Roch Pagé, Monsignor Roch Pagé who was retiring as the Dean
17 of the Faculty of Canon Law at St. Paul University to
18 receive his comments about it from a canonical point of
19 view.

20 **MR. SHERRIFF-SCOTT:** And was he involved in
21 the From Pain to Hope exercise?

22 **BISHOP DUROCHER:** He was one of the
23 committee members in Pain to Hope.

24 **MR. SHERRIFF-SCOTT:** And so did he give you
25 his feedback in terms of how he saw the policy in its

1 efficiency?

2 **BISHOP DUROCHER:** Yes. He gave me two or
3 three pages of comments.

4 **MR. SHERRIFF-SCOTT:** Okay. And just in
5 terms of Father MacNeil, he provided -- did he give -- in
6 the training sessions, were there case studies that were
7 developed for the committee members from training point of
8 view by him?

9 **BISHOP DUROCHER:** That's correct. On the
10 training day that they did it, they did some case study
11 work.

12 **MR. SHERRIFF-SCOTT:** And just on his resume
13 as he describes it, which is very brief and modest at page
14 36, and I mean modest from the point of view of his own
15 modesty because he has very prodigious credentials, but if
16 you can turn up to page 36, there's just one thing I want
17 to ask you about.

18 **THE COMMISSIONER:** Which tab?

19 **MR. SHERRIFF-SCOTT:** Thirty-six (36).

20 **THE COMMISSIONER:** Tab 36.

21 **MR. SHERRIFF-SCOTT:** Tab 36, I'm sorry. Tab
22 36, not page 36.

23 First of all, he has not only undergraduate
24 but extensive postgraduate training. Correct?

25 **BISHOP DUROCHER:** Correct.

1 **MR. SHERRIFF-SCOTT:** And his work with the
2 American bishops, could you describe that a little more for
3 the Commissioner, please?

4 **BISHOP DUROCHER:** He was hired as the
5 project coordinator for the American Bishops Ad Hoc
6 Commission on Sexual Abuse. If I'm not mistaken, this was
7 in the early '90s.

8 **MR. SHERRIFF-SCOTT:** So this predated the
9 promulgation of the Dallas Charter?

10 **BISHOP DUROCHER:** That's right. This was I
11 would say the American bishops were starting to face the
12 issue of sexual abuse by clergy. He was hired by the
13 American bishops to do a study and to make a report. He
14 was telling me the other night that the report is about 195
15 pages long.

16 **MR. SHERRIFF-SCOTT:** Why did they choose
17 him?

18 **BISHOP DUROCHER:** Because of his experience
19 with the Winter Commission in Newfoundland, because of his
20 background as general secretary of the Canadian Conference
21 of Catholic Bishops and also because of his formation I
22 believe in ethics and Canon Law.

23 **MR. SHERRIFF-SCOTT:** And does the Dallas
24 Charter, at least in part, reflect some of the
25 recommendations emanating from his report?

1 **BISHOP DUROCHER:** I believe it does and this
2 is his opinion also.

3 **MR. SHERRIFF-SCOTT:** And so he worked with
4 the committee that you developed extensively?

5 **BISHOP DUROCHER:** That's correct. He was
6 our resource person.

7 **MR. SHERRIFF-SCOTT:** All right.
8 And did he give you the sort of ethical and
9 canonical overview as well as Roch Pagé?

10 **BISHOP DUROCHER:** Yes, he did. Well, he
11 accompanied the committee as it was moving forward.

12 **MR. SHERRIFF-SCOTT:** And Reverend Pagé is
13 the successor as the Dean of Canon Law at St. Paul's to
14 Reverend Morrisey.

15 **BISHOP DUROCHER:** I'm not sure he was
16 successor but one of the successors, yes.

17 **MR. SHERRIFF-SCOTT:** Okay. There were
18 questions about religious orders that may exist in the
19 Diocese and in particular there was one order that you
20 mentioned and I wondered whether or not you could tell the
21 Commission what steps the Diocese has taken since your
22 tenure to satisfy yourself that any person who is
23 "religious", if I can use that expression in parentheses
24 within the meaning of what you've identified, to satisfy
25 from a policy point of view the Diocese that that person

1 ought or ought not to be performing duties or receiving
2 faculties?

3 **BISHOP DUROCHER:** Well, specifically with
4 the Legionaries of Christ, any of them who do get faculties
5 from me for exercising some ministry in the Diocese, I
6 receive -- first of all, I insist on having -- receiving a
7 letter from the regional superior attesting to the quality
8 of life and the background of the person. I also met with
9 the local superior of this institution to ask him what his
10 policies were within his own congregation for safeguarding
11 against sexual abuse and he did ---

12 **MR. SHERRIFF-SCOTT:** Did they have them?

13 **BISHOP DUROCHER:** Yes, yes, quite an
14 extensive policy. Since they are -- their headquarters --
15 at least their regional headquarters are based in the
16 United States and in the United States, there is a mandated
17 formation session for all priests. All of them have been
18 through that formation session.

19 **MR. SHERRIFF-SCOTT:** And what about
20 background information on the individuals who may or may
21 not seek faculties in terms of ---

22 **BISHOP DUROCHER:** For those who seek
23 faculties, I request that letter from their superior saying
24 that they've checked the background and everything is okay.

25 **MR. SHERRIFF-SCOTT:** All right.

1 In terms of screening in general, just if
2 the Commission could be identified -- you could identify
3 for the Commission and this is at page 21 of your outline,
4 first of all, what happens today outside of the Diocese in
5 terms of formation at seminary for priests from the point
6 of view of screening and vetting, if I can use that
7 expression, from the point of view of this issue or more
8 generally?

9 **BISHOP DUROCHER:** Seminarians go through
10 extensive -- an extensive admission procedure which
11 involves reference, criminal background check, but more
12 particularly intensive psychological testing to ensure that
13 the candidate is solid as he enters seminary. During
14 seminary, there is continually evaluation of the candidate
15 from many points of view including spiritual, moral,
16 psychosexual integration, et cetera. Those evaluation
17 reports are handed to me, the bishop, every semester.

18 **MR. SHERRIFF-SCOTT:** Can I stop you there,
19 Bishop? Do you follow this and is it obvious to you that
20 someone is coming when they start seminary or how do you
21 know?

22 **BISHOP DUROCHER:** Yes. Before somebody is
23 admitted to seminary, they have to -- I have to present
24 them as candidates to a seminary.

25 **MR. SHERRIFF-SCOTT:** To a seminary?

1 **BISHOP DUROCHER:** Yes. You cannot enter
2 seminary without being presented by a bishop.

3 So through the process, there is continual
4 evaluation and there is also during the years of formation
5 an internship in a parish and during that internship, there
6 is mentoring and extensive evaluation going on.

7 During the course of the formation program,
8 there are also sessions, workshops or classes on moral
9 theology, on psychosexual integration, on spirituality that
10 can help a man preparing for ordination to face the
11 challenges of the sacrament.

12 **MR. SHERRIFF-SCOTT:** And the psychological
13 testing, is part of that devoted to psychosexual issues?

14 **BISHOP DUROCHER:** It is.

15 **MR. SHERRIFF-SCOTT:** Okay. And do these
16 developments in part have their origin in From Pain to
17 Hope?

18 **BISHOP DUROCHER:** Yes. I would say even
19 before From Pain to Hope but certainly after From Pain to
20 Hope, seminaries have, how can you say, developed more --
21 in a more intentional way the screening and the formation
22 of their candidates regarding these issues.

23 **MR. SHERRIFF-SCOTT:** Thank you.

24 I just want to touch on this question now of
25 the Sacrament of Confession or Reconciliation as it's now

1 called and I'm wondering if I could ask you to -- just that
2 I'm concerned that you put some flesh on the bones that
3 have been identified here. There is presented the spectre
4 of this conflict and I want to just develop the point a bit
5 from your point of view in terms of let's start with the
6 history of this process and not exhaustively sort of put it
7 in context and then we'll get to some more specific
8 questions if you could start.

9 **BISHOP DUROCHER:** The history of the
10 Sacrament of Confession?

11 **MR. SHERRIFF-SCOTT:** Yes, please.

12 **BISHOP DUROCHER:** Reconciliation or
13 confession started in the church as a process for
14 reconciling a public sinner with the community. In the
15 early church, there were considered three things that a
16 person could do that basically cut themselves off from the
17 church, either murder or adultery or apostasy, apostasy
18 being the rejection of one's faith in the face of
19 persecution. And those three sins were seen as cutting one
20 from -- cutting one off from the community.

21 So a process was developed whereby a person
22 who wanted to reintegrate the community could do so through
23 a confession of their sins, a time of penance that was
24 equivalent to the Lenten season, what we call Lent now, 40-
25 day Lenten season and during the Holy Week on Holy

1 Thursday, a public forgiveness absolution given by the
2 bishop back then to the candidate.

3 Usually this could only be done once in
4 one's life.

5 **MR. SHERRIFF-SCOTT:** I'm sure once would be
6 enough.

7 (LAUGHTER/RIRES)

8 **BISHOP DUROCHER:** So those were the first
9 centuries of the church. Eventually, as the church grew
10 and expanded and particularly in the non-urban areas where
11 bishops were not available, there started the practice of
12 doing this process in a more, how can you say, personal way
13 with a priest, typically a monk, and what would happen is
14 that a person would go see a monk, confess to a certain
15 sin. The monk would apply a certain penance to be
16 observed. Once the penance was accomplished, then the
17 person would come back and say "I have accomplished the
18 penance" and the person would be absolved of their sin.

19 This went on for a few centuries up until
20 the Middle Ages when it was seen as very problematic for
21 people to have to go see the priest twice, you know, before
22 and after the penance. So then they developed that the
23 person would go see the priest, confess their sins, the
24 priest would give them absolution and then tell them, "This
25 is the penance that you should do".

1 So there was always a penitential aspect
2 which encouraged in a sense both the development of
3 contrition for the sin that you have committed, also as a
4 sign of conversion, of changing one's life, and also
5 depending on the kind of sin, a certain making up for it.
6 For example, if you had stolen something, then part of your
7 penance would typically be you will give money away to a
8 good cause.

9 **MR. SHERRIFF-SCOTT:** Can I just ask you
10 maybe if you could try and list sort of in bullets what the
11 purposes of the sacrament would be in practical terms? For
12 example, I assume it has practical dimensions.

13 **BISHOP DUROCHER:** That's right. I mean, the
14 point of the sacrament is to bring about conversion of the
15 person, to bring the person to change their way of life.
16 It is also meant to help the person realize that there is a
17 possibility of change and of growth and it re-establishes
18 the person in relationship with his community, with society
19 in general and tries to bring that person to become, how
20 can you say, a more positive contributor to society life
21 and to his personal life.

22 **MR. SHERRIFF-SCOTT:** And since the Second
23 Vatican Council, it's been called the Sacrament of
24 Reconciliation. Is that correct?

25 **BISHOP DUROCHER:** Yes.

1 **MR. SHERRIFF-SCOTT:** And what are the sort
2 of reconciliation names?

3 **BISHOP DUROCHER:** Yes. I would say it's
4 called officially the Sacrament of Reconciliation and
5 Penance.

6 **MR. SHERRIFF-SCOTT:** Okay.

7 **BISHOP DUROCHER:** It used to be called
8 confession because while it put the emphasis on the fact of
9 confessing one's sin, by recalling it -- by renaming it as
10 reconciliation and penance, it puts much more the emphasis
11 on the object of it, which is to reconcile a person to the
12 community, to God and to himself and the penitential
13 dimension which is the conversion aspect of it.

14 **MR. SHERRIFF-SCOTT:** Okay. Does the Diocese
15 either in Cornwall or at any diocesan level have authority
16 to deviate from the practice that is established or to
17 change the sacrament?

18 **BISHOP DUROCHER:** No, diocesan bishops have
19 no power to change anything to do with sacramental or
20 liturgical law in the Church.

21 **MR. SHERRIFF-SCOTT:** All right.

22 Now, these aims of reconciliation, as you
23 mentioned, with the Church, with people, with the society
24 and maybe its normative rules, how can -- how is that
25 achieved in terms of the priest taking his role? What is

1 the role? When you have the penitent come to you, what do
2 you do?

3 **BISHOP DUROCHER:** The confessor is at the
4 same time the representative of the Church ministering
5 reconciliation and forgiveness but also takes on a certain
6 role as a spiritual director or a counselor because in the
7 process there is time given for discussion, for exchange.
8 And so in that discussion and exchange, typically there
9 will be an effort to get to the bottom of the problem and
10 to help that person face what are the root causes and to
11 help them to deal with that.

12 What will happen in certain situations is
13 that a regular relationship will be established between the
14 penitent and the confessor so that the penitent will say,
15 "He is my confessor", in a sense, and will go to him in
16 order to, from one celebration of the sacrament to the
17 other, be able to grow and to transform their situation.

18 **MR. SHERRIFF-SCOTT:** Okay. So let's put
19 this in the context of all these theoretical conflicts that
20 were put to you.

21 How is the role of a priest to facilitate
22 reconciliation in the environment of a crime if it's, say,
23 over multiple sessions? What's the object?

24 **BISHOP DUROCHER:** Well, the object would be,
25 I think, to help the person to realize the seriousness of

1 the crime, to organize himself or herself, to avoid any
2 further repetition of that crime, to make amends for the
3 crime that might have been committed and to seek help if
4 there is need for help to change one's life.

5 **MR. SHERRIFF-SCOTT:** Do you get training in
6 how to deal with confession?

7 **BISHOP DUROCHER:** A seminary will have
8 courses on -- each seminarian must take a course on the
9 Sacrament of Confession both from the canonical and the
10 spiritual point of view and, as well, there are moral
11 theology courses that seminarians must take.

12 **MR. SHERRIFF-SCOTT:** In law school we debate
13 the solicitor and client privilege in the sort of famous
14 examples or extreme examples such as have been put to you.
15 Do these debates from a theological and moral theology
16 perspective happen in this environment?

17 **BISHOP DUROCHER:** Yes, they do.

18 **MR. SHERRIFF-SCOTT:** Okay. From your point
19 of view, how is it that people are able to speak freely in
20 the sacrament?

21 **BISHOP DUROCHER:** Well, the seal of the
22 sacrament is what allows people to speak freely. If the
23 seal of the sacrament did not exist, then the sacrament
24 would die. People would not come forward to confess their
25 sins if they knew that those sins could be repeated

1 somehow.

2 **MR. SHERRIFF-SCOTT:** Now, since the second
3 Vatican Council, you indicated earlier that there's an
4 option to have reconciliation sort of face to face with
5 your priest, but how would you sort of rate the vast
6 majority of cases? Are they in one environment or the
7 confessional or the other?

8 **BISHOP DUROCHER:** It would really depend on
9 the person and on -- it depends a lot also on the
10 environment. I would say that typically right now, most
11 priests identify hours of confession and confession is
12 typically celebrated within the confessional now.

13 **MR. SHERRIFF-SCOTT:** And the confessional --
14 -

15 **THE COMMISSIONER:** I'm sorry. Say that
16 again?

17 **BISHOP DUROCHER:** Typically, the celebration
18 takes place in the confessional and the confessional is a
19 space that is organized for that protection of anonymity.
20 For those who don't know, basically the priest is sitting
21 in a small room with a door. There's another door that
22 gives in to another small room with a window that is
23 protected by a grill and covered and in darkness so that
24 the person who comes in speaks to the priest through that
25 grill and through that darkness.

1 **MR. SHERRIFF-SCOTT:** And what are the
2 directives to the priest? Are you allowed -- if the person
3 is seeking anonymity to walk outside and identify the
4 person or is there ---

5 **BISHOP DUROCHER:** Absolutely not. If the
6 person is seeking anonymity, we have to respect that
7 anonymity.

8 **MR. SHERRIFF-SCOTT:** How about asking for
9 names and information?

10 **BISHOP DUROCHER:** We're not allowed to ask
11 for any information beyond that which will help us to help
12 that person to face their sin, for example.

13 **MR. SHERRIFF-SCOTT:** And what about the, if
14 I can use the expression, strings attached to receiving
15 this sacrament? What is required for the penitent to
16 receive the sacrament? Is there a role?

17 **BISHOP DUROCHER:** Yes, what is required is a
18 full confession, meaning they have to confess all serious
19 sins. There has to be remorse. If there is no remorse,
20 there can be no sacrament. And there has to be the
21 intention to fulfill that penance.

22 **MR. SHERRIFF-SCOTT:** So from the point of
23 view of the *bona fide* of the penitent, if they're coming to
24 you, confessing something serious, your reaction is what?

25 **BISHOP DUROCHER:** My reaction will be to,

1 first of all, be compassionate to the person who is coming
2 to me, realizing how hard it must be to confess something
3 so serious; secondly, to make sure that he understands in
4 that compassion that God is trying to give him or her a
5 sign of forgiveness but also to call that person to
6 conversion and to transformation. And so in that sense,
7 there's a kind of a double-edged role which, on the one
8 hand, is compassion but, on the other hand, challenging.

9 **MR. SHERRIFF-SCOTT:** Now, the theoretical
10 conflicts have been put to you a number of times today.
11 What is your assessment of this issue in terms of the
12 reality of the situation in a confessional?

13 **BISHOP DUROCHER:** Well, I think generally
14 it's hypothetical. I think I mentioned that earlier. I
15 think it's a hypothetical situation where a priest comes
16 face to face to another priest to confess such a serious
17 sin. If they're aware of what they've done, I think -- if
18 they're not aware of the seriousness of what they have
19 done, they wouldn't be going to confession. If they're
20 aware of what they have done, I think they would probably
21 seek the anonymity of the confessional in order to speak
22 about it.

23 **MR. SHERRIFF-SCOTT:** And just coming back to
24 your policy -- and I'm sorry to jump around on subjects --
25 but the reviews you got from Reverend Pagé and Everett

1 MacNeil, how are those in terms of their assessment of your
2 current policy and how it measures up to the
3 recommendations in "From Pain to Hope"?

4 **BISHOP DUROCHER:** Both of them -- both
5 Reverend MacNeil and Reverend Pagé both feel that the
6 policy that we have in place right now measures up
7 completely to the recommendations of "From Pain to Hope",
8 given the size of our Diocese and the resources that are
9 available here in the Diocese.

10 **MR. SHERRIFF-SCOTT:** And just on that
11 subject of the report and the recommendations in it, if you
12 could turn to Tab 26?

13 **THE COMMISSIONER:** Page 26, you said?

14 **MR. SHERRIFF-SCOTT:** I'm sorry, Tab -- I
15 keep saying page.

16 **THE COMMISSIONER:** No, no, it's Tab 26; I'm
17 sorry.

18 **MR. SHERRIFF-SCOTT:** Yes, it's page 46.

19 If you can just, Bishop, quickly run down
20 here in terms of point 6, first of all, the delegate has
21 been appointed pursuant to your policy, and that is Dr.
22 Legault?

23 **BISHOP DUROCHER:** That's correct.

24 **MR. SHERRIFF-SCOTT:** And Dr. Legault has
25 received training from the local police force and the CAS,

1 as well as having his other background?

2 BISHOP DUROCHER: That's right.

3 MR. SHERRIFF-SCOTT: And that training, as
4 well, was given to the committee?

5 BISHOP DUROCHER: That's right.

6 MR. SHERRIFF-SCOTT: The Advisory Committee
7 is obviously set up?

8 BISHOP DUROCHER: That's right.

9 MR. SHERRIFF-SCOTT: And there are
10 professionals on that who have the psychological background
11 from a professional point of view?

12 BISHOP DUROCHER: Yes, on the Victims Care
13 Committee.

14 MR. SHERRIFF-SCOTT: Okay. Paragraph 8 is
15 self-evident and some of these are implementation points,
16 so they are not germane to identifying what your policy is.

17 But paragraph 11, this is what you would
18 call the Victims Care Committee?

19 BISHOP DUROCHER: That's correct.

20 MR. SHERRIFF-SCOTT: Okay. And does the
21 Diocese follow paragraph 12 in the event -- well, I'm not
22 sure it's happened, but if -- is that the policy?

23 BISHOP DUROCHER: That would be the
24 intention that qualified resource people in counseling
25 would be provided to a victim who required it.

1 **MR. SHERRIFF-SCOTT:** And just in terms of --
2 well, this is in my head and it stays there for a moment.
3 The question of confidentiality which was put to you about
4 settlements in the Diocese historically, what is your
5 position on whether or not the Diocese is open to having
6 people talk about those settlements, whether or not subject
7 to a victim's concern about confidentiality? In other
8 words, if there's a release where the victim has wanted
9 confidentiality, subject to that, what is your position?

10 **BISHOP DUROCHER:** I'm sorry, I don't
11 understand the question.

12 **MR. SHERRIFF-SCOTT:** In terms of any
13 historical settlement by the Diocese, if there is a
14 release, what is your position on whether or not it is open
15 for discussion here?

16 **BISHOP DUROCHER:** I said publicly that in
17 the Diocese there has only been one such settlement, and
18 that person is free to come speak to me. There's a third
19 party involved in it, so I can't free them from the third-
20 party involvement, but certainly I would be willing to, you
21 know, speak about that and speak to the third party who is
22 involved.

23 **MR. SHERRIFF-SCOTT:** Thank you.

24 Now, the canonical inquiry, that's something
25 that is in your discretion, and there was questioning on

1 you about the policy and whether or not from your point of
2 view, looking at one specific paragraph, that meant that
3 you were limited in your investigation as a committee to
4 circumstances in which there either had been no charges or
5 the charge had been dismissed. This is a situation where
6 the charge was dismissed. There was a suggestion on the
7 wording of the policy that that would not be encompassed in
8 the committee's mandate.

9 Can I just have your reaction to that again?
10 You'll remember it's at Tab 40 -- let me find it. It's Tab
11 44 -- 46.

12 **BISHOP DUROCHER:** Yes.

13 **MR. SHERRIFF-SCOTT:** Page 7.

14 **BISHOP DUROCHER:** Correct. The problem here
15 is that the language might indicate that it's only in the
16 case where no charges are laid that the Advisory Committee
17 could continue to function, to investigate, that in the
18 case where a person is found not guilty but yet where there
19 were doubts that the Advisory Committee could not function.

20 I'll read that language because it is not
21 the intent of the policy to be doing that. The policy is
22 if the committee feels that there is still doubts after a
23 procedure, a criminal process, then the advisory committee
24 could continue to look into that.

25 **MR. SHERRIFF-SCOTT:** Thank you.

1 **THE COMMISSIONER:** Well, maybe arising out
2 of that, Mr. Sherriff-Scott ---

3 **MR. SHERRIFF-SCOTT:** Yes.

4 **THE COMMISSIONER:** --- as a hypothetical in
5 the present time now, what if charges are stayed?

6 **MR. SHERRIFF-SCOTT:** Well, I assume it would
7 encompass a stay of charges, but I'll ask the witness.

8 Is the committee's mandate precluded by a
9 stay of charges?

10 **BISHOP DUROCHER:** No, I would say that if
11 the charges were stayed, the Committee then, even more so,
12 would have to advise me on how to proceed with the
13 situation.

14 **MR. SHERRIFF-SCOTT:** What is the role of the
15 committee in terms of -- it does the work and makes the
16 recommendation to you?

17 **BISHOP DUROCHER:** Yes, through the delegate.
18 The committee actually advises and helps the delegate in
19 his work and the delegate brings back that work to the
20 committee and then the committee advises me on what I
21 should be doing.

22 **MR. SHERRIFF-SCOTT:** So what is their
23 independence from you?

24 **BISHOP DUROCHER:** They are completely
25 independent from me in their work and in the

1 recommendations that they make.

2 **MR. SHERRIFF-SCOTT:** If I could just have a
3 moment, Commissioner? I'm drawing to the end here.

4 **THE COMMISSIONER:** Certainly.

5 **MR. SHERRIFF-SCOTT:** There were scattered
6 points I wanted to make sure I covered.

7 Yes, Bishop, here's one of them. The
8 question was frequently visited by my friend Mr. Engelmann
9 -- I was going to say repeatedly, but I was trying to
10 soften my aggression -- frequently touched on by my friend,
11 the question of fees and costs and so forth.

12 Can I turn you to Tab 8, Volume 1? I'm
13 sorry, I meant to turn you to Denis Vaillancourt's
14 document.

15 **THE COMMISSIONER:** I thought you were going
16 to talk about Jeffrey King's statement of account.

17 **(LAUGHTER/RIRE)**

18 **MR. SHERRIFF-SCOTT:** No, unfortunately, this
19 document got out of the bag as it were; otherwise, it would
20 have remained privileged, but this is the mischief of
21 privileged documents in traffic.

22 I was going to ask you about Denny
23 Vaillancourt's document, my apologies.

24 **THE COMMISSIONER:** It's near the end, I
25 believe, isn't it?

1 **MR. SHERRIFF-SCOTT:** Pardon me? That's Tab
2 25.

3 **THE COMMISSIONER:** Twenty-five (25). Right.

4 **MR. SHERRIFF-SCOTT:** Now I've lost my
5 reference. Let me just come back to this. Sorry. I'm
6 trying to find something. Yes, it is the Tab 8, I'm sorry,
7 Bishop. And it is page 2 of the Proposed Procedure,
8 paragraph 9.

9 Paragraph 9 talks about a contingency fund
10 about legal costs and so forth, and as I looked at Pain to
11 Hope there was -- this sort of morphed into a
12 recommendation on the victim's side that the Dioceses had a
13 sort of reserved fund available or that dioceses look at
14 developing a reserve fund insofar as victims are concerned.
15 Has that been done?

16 **BISHOP DUROCHER:** Yes.

17 **MR. SHERRIFF-SCOTT:** Thank you.

18 What was -- just in terms of your
19 predecessor's practice with respect to the question of fees
20 for those accused in terms of whether they were paid
21 outright or whether any strings were attached, can you help
22 us with that?

23 **BISHOP DUROCHER:** The policy in the Diocese
24 is that if a priest is charged they would -- the Diocese
25 would pay their legal representation with the understanding

1 that if they were to be found guilty, then they would pay
2 that money back, so that it is more or less a loan to the
3 priest.

4 The reason, if I can elaborate on the
5 motivation for it, in a religious order priests put all
6 their belongings into common. So if a religious priest was
7 found in that situation, the religious order would
8 automatically take care of those fees because of the fact
9 that the priests own nothing.

10 Now, diocesan priests can own -- you know,
11 they do get a salary, but the salary is very small.
12 They're given room and board and a small stipend, so they
13 really have no equity with which to borrow any funds. And
14 so a priest who would find himself charged in a situation
15 like this would have no financial means of taking care of
16 his own representation.

17 So in a sense, given that the priest has
18 committed his life to the Diocese and has agreed to do so
19 for such low remuneration, there is a moral obligation to
20 help out the priests in those situations.

21 **MR. SHERRIFF-SCOTT:** Just sort of on the
22 cross-examination point, and to play the devil's advocate,
23 not to mix metaphors, of course, but not all priests would
24 be able to pay you back.

25 **BISHOP DUROCHER:** Not all priests would be

1 able to pay me back for sure. We would expect them to do
2 what they can to do it.

3 The other thing too is that if a priest was,
4 indeed, found guilty and decided to appeal, I would not
5 fund his appeal.

6 **MR. SHERRIFF-SCOTT:** I am almost finished, I
7 just want to -- if I could just have five or ten seconds,
8 Mr. Commissioner.

9 **THE COMMISSIONER:** Certainly.

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **MR. SHERRIFF-SCOTT:** Can I ask if you could
12 turn to Tab 28, Bishop, of Volume 2, and if you could
13 particularly look at the bottom paragraph.

14 **BISHOP DUROCHER:** In the media release?

15 **MR. SHERRIFF-SCOTT:** Yes, sir.

16 **BISHOP DUROCHER:** Yes.

17 **MR. SHERRIFF-SCOTT:** The bishop here was
18 urging the public that if there were complaints or
19 information that they should come forward.

20 **BISHOP DUROCHER:** Absolutely.

21 **MR. SHERRIFF-SCOTT:** Okay. And that was at
22 the same time as he issued the press release, with is the
23 release of Denny Vaillancourt's document.

24 **BISHOP DUROCHER:** That's correct.

25 **MR. SHERRIFF-SCOTT:** Okay. Can I ask why --

1 if you can just flip forward -- do you understand it --
2 looking at Denny Vaillancourt's document versus Tab 31,
3 which is the document that flows from meetings with the OPP
4 and the CAS, I am wondering why the Diocese sort of
5 contracted all the things that were in Denny Vaillancourt's
6 document. I mean I don't want to characterize his
7 document, but it was certainly more detail.

8 **BISHOP DUROCHER:** My interpretation of it
9 was that the Children's Aid and the police were
10 recommending strongly that basically they should be allowed
11 to handle any investigation without the Diocese being
12 involved and so these guidelines simply say that you report
13 it and then you wait.

14 It was perhaps necessary at that time in
15 terms of ---

16 **MR. SHERRIFF-SCOTT:** --- the climate?

17 **BISHOP DUROCHER:** The climate and the public
18 perception.

19 **MR. SHERRIFF-SCOTT:** Okay. Thank you.

20 Tab 37, page 3. Just harkening back to this
21 point about the question of whether or not an acquittal
22 takes place, in the middle of page 3, under paragraph 4,
23 the last bullet "If the justice system does not resolve
24 issues"; Mr. Engelmann took you to the expression that "the
25 church might be leery of continuing with an investigation".

1 Can I ask you to just now go to Tab 26 at
2 page 33, paragraph (e). And you will see it
3 starts with:

4 "Similar action may be necessary when a
5 priest is acquitted in a Criminal Court
6 as a result of insufficient evidence,
7 but serious doubts remain about his
8 moral responsibility and about the
9 likelihood and probable nature of the
10 alleged acts. Prudence and obligation
11 to protect the potential victim should
12 guide the Bishop in making decisions.
13 Points listed in recommendation 20
14 could be used with adaptations."

15 Does this inform your interpretation of your
16 own document?

17 **BISHOP DUROCHER:** I'm sorry, I wasn't able
18 to follow where you were.

19 **MR. SHERRIFF-SCOTT:** Do you have the screen
20 up?

21 **BISHOP DUROCHER:** Yes.

22 **MR. SHERRIFF-SCOTT:** You see "Similar action
23 may be necessary..."; in other words, after an acquittal or
24 there is insufficient evidence ---

25 **BISHOP DUROCHER:**

1 "... is acquitted in a Criminal Court..."

2 Yes, I think what was being said in the
3 discussion here, as we were discussing From Pain to Hope,
4 was the fact that the church would have to pursue, could
5 pursue an investigation if they were not satisfied that the
6 criminal justice system had not been able to function fully
7 because of aspects of civil law.

8 "The response of the Church would be
9 leery of undertaking such a course of
10 action."

11 I think if I remember correctly from that
12 discussion, it was more about how will we, as a small
13 organization, be able to come to a conclusion where, you
14 know, the state was not able to come to a conclusion.

15 So that's kind of the leery aspect of it,
16 but certainly, in the terms of what From Pain to Hope is
17 saying there, is that just because the criminal justice
18 system can't come to a conclusion doesn't mean that we
19 close the case.

20 **MR. SHERRIFF-SCOTT:** Thank you.

21 Just on the question of reduction to lay
22 status, as I understand it, prior to 1983, under the older
23 Code or the first Code, did a Bishop have discretion to
24 reduce to lay status or was that something only Rome could
25 accomplish?

1 **BISHOP DUROCHER:** Prior to '83, there was
2 one Canon that gave a bishop extremely wide powers that if
3 the bishop was in his conscience certain that a serious
4 offence had been committed, he could go to the point of
5 reducing to the lay status a priest.

6 **MR. SHERRIFF-SCOTT:** And that was changed
7 after the 1983 version?

8 **BISHOP DUROCHER:** Yes, because it just gave
9 too much power to the bishop. When the bishop did this, he
10 didn't have to give reasons to the priest. The priest
11 could hardly appeal the decision. It was just considered
12 too broad and too dangerous for human rights under the Code
13 of Canon Law.

14 **MR. SHERRIFF-SCOTT:** The '83 Code is more
15 reflective of incorporating procedural fairness rights.

16 **BISHOP DUROCHER:** Absolutely. It's one of
17 the characteristics of the '83 Code.

18 **MR. SHERRIFF-SCOTT:** Okay. Thank you.

19 And now in terms of the congregation, did
20 they have or if there is a practice, do they refer back to
21 the original jurisdiction or use regional tribunals?

22 **BISHOP DUROCHER:** You are speaking of the
23 Congregation of the Doctrine of the Faith?

24 **MR. SHERRIFF-SCOTT:** Yes?

25 **BISHOP DUROCHER:** If a bishop refers a case

1 or when he refers a case to the Congregation of the
2 Doctrine of the Faith, typically, the congregation then
3 will direct the bishop to either set up a tribunal in his
4 own diocese or to use the facilities of a regional tribunal
5 and will give further directives on how to proceed in the
6 case.

7 **MR. SHERRIFF-SCOTT:** What kind of
8 credentials do regional tribunal members have to have?

9 **BISHOP DUROCHER:** Well, on a case like this,
10 it would need three judges and each judge has to have a
11 licentiate in Canon Law.

12 **MR. SHERRIFF-SCOTT:** Thank you, Bishop.
13 I think those are my questions,
14 Commissioner.

15 **THE COMMISSIONER:** Thank you.
16 Mr. Engelmann.

17 --- RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MR. ENGELMANN:

18 **MR. ENGELMANN:** A few questions arising.
19 My friend, Mr. Sherriff-Scott, mentioned
20 feedback from Roch Pagé and Everett MacNeil on the policy
21 that was promulgated. Did you actually receive some
22 written reports from him?

23 **BISHOP DUROCHER:** From Roch Pagé, yes.

24 **MR. ENGELMANN:** Okay. They're not in?

25 **BISHOP DUROCHER:** No, I didn't include the

1 feedback we got in the process. I didn't.

2 **MR. ENGELMANN:** Okay. I was just curious.

3 **BISHOP DUROCHER:** I can make that available,
4 but it wasn't included.

5 **MR. ENGELMANN:** And Reverend MacNeil was ---

6 **BISHOP DUROCHER:** Reverend MacNeil's
7 comments were oral. He was involved in the whole process.

8 **MR. ENGELMANN:** And the second issue is just
9 your comment about retention counsel, and with the risk of
10 saying that two is frequent, I want to just -- you
11 mentioned something about having to pay back, if they're
12 found guilty. That isn't found in the protocol?

13 **BISHOP DUROCHER:** That's not in the
14 protocol, no.

15 **MR. ENGELMANN:** Okay. Those are all the
16 questions.

17 Thank you again for your attendance here.

18 **THE COMMISSIONER:** Thank you.

19 I have a couple of questions.

20 And first of all, I want to thank you for
21 coming in and staying late tonight.

22 I think it's a question of where do we go
23 from here in the sense of authority? You obviously are the
24 Bishop of the Diocese and so in dealing with the events of
25 the Cornwall Inquiry and the history of that, does that all

1 fall in your hands or do you ask for -- report to someone
2 else or are you all alone in all of this?

3 **BISHOP DUROCHER:** In terms of implementing
4 any recommendations or in terms of dealing with this
5 situation?

6 **THE COMMISSIONER:** M'hm.

7 **BISHOP DUROCHER:** You could say I'm all
8 alone in this. Alone in the sense that the authority is
9 mine, as Bishop of the Diocese, to lead the Diocese in a
10 certain direction; to establish policy; to see to its
11 implementation. I'm responsible for that.

12 I am not alone in terms of other bishops
13 that I can speak with; the information I can get from them,
14 but there's no structure to whom I report on this.

15 **THE COMMISSIONER:** All right.

16 So you can seek advice from others but I
17 suppose you aren't going to get advice from Rome on how to
18 deal with this matter?

19 **BISHOP DUROCHER:** No, I can't expect advice
20 from Rome on this issue. These ---

21 **THE COMMISSIONER:** I'm using Rome as a ---

22 **BISHOP DUROCHER:** Yes, I know what you mean,
23 but these are such local issues that this is why the Church
24 is so decentralized, because there would be no way to
25 handle across the world these kinds of situations the way

1 that would be sensitive to local and regional realities.

2 **THE COMMISSIONER:** Any questions arising out
3 of that?

4 Good luck to you then.

5 **BISHOP DUROCHER:** Thank you.

6 **THE COMMISSIONER:** Mr. Engelmann.

7 **MR. ENGELMANN:** Well just before we wrap up,
8 I think for the time being, we are currently scheduled to
9 be back here on September 5th.

10 **THE COMMISSIONER:** At two o'clock.

11 **MR. ENGELMANN:** Yes.

12 If there are any issues that counsel have
13 with respect to disclosure, other matters, and I realize
14 that one was raised by Mr. Manson, they should please
15 advise and if they have any concerns about our order of
16 proceeding, they could let us know, but I have sent a
17 letter to all counsel about the context expert, Father
18 Loftus.

19 **THE COMMISSIONER:** Father Loftus.

20 **MR. ENGELMANN:** Father Loftus will be here.
21 Opening statements as well for the 5th, 6th and 7th, and then
22 starting the calling of some victims and alleged victims
23 the week of September 11th.

24 **THE COMMISSIONER:** That's correct.

25 All right. So we all know what we have to

1 do. Let's make sure we do it and that we proceed on the
2 dates given.

3 Once again, thank you very much.

4 **THE REGISTRAR:** Order. All rise. À
5 l'ordre; veuillez vous lever.

6 The hearing is now adjourned. L'audience
7 est ajournée.

8 --- Upon adjourning at 6:24 p.m./

9 L'audience est ajournée à 18h24

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C E R T I F I C A T I O N

I, Sean Prouse a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Sean Prouse, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Sean Prouse, CVR-CM