

**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 88**

**Held at :**

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

Thursday, February 01, 2007

**Tenue à:**

Salle des audiences  
709, rue de la Fabrique  
Cornwall, Ontario  
K6H 7K7

Jeudi, le 1 février 2007

**ERRATA**

January 30, 2007

Volume 86

**TRANSCRIPT**

Page 201, line 16

**MR. ENGELMANN:** Okay.

The first time you were interviewed by  
Children's Aid, that was with Mr. Bough and Ms. DeBellis?

Should have read:

**MR. ENGELMANN:** Okay.

The first time you were interviewed by  
Children's Aid, that was with Mr. **Bell** and Ms. DeBellis?

Page 202, Line 18

**MR. ENGELMANN:** All right.

The other individuals you dealt with from  
Children's Aid, Mr. Bough, Ms. DeBellis?

Should have read:

**MR. ENGELMANN:** All right.

The other individuals you dealt with from  
Children's Aid, Mr. **Bell**, Ms. DeBellis?

Page 203, line 3

**MR. ENGELMANN:** There we some letters that were  
signed by Mr. Bough, Ms. DeBellis and Mr. Carriere who I  
think was their supervisor.

Should have read:

**MR. ENGELMANN:** There we some letters that were  
signed by Mr. **Bell**, Ms. DeBellis and Mr. Carriere who I  
think was their supervisor.

**Appearances/Comparutions**

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Louise Mongeon	Registrar
Mr. John E. Callaghan Mr. Mark Crane	Cornwall Police Service Board
Mr. Neil Kozloff Ms. Diane Lahaie	Ontario Provincial Police
Mr. Stephen Scharbach	Attorney General for Ontario
Mr. Tilton Donihee	The Children's Aid Society of the United Counties
Mr. Peter Wardle Mr. Steven Canto	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Dominic Lamb	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
Ms. Jill Makepeace	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Ms. Jennifer Birrell	Catholic District School Board
Mr. Clint Culic	Mr. David Silmser

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1 --- Upon commencing at 9:38 a.m./

2 L'audience débute à 9h38

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

5 This hearing of the Cornwall Public Inquiry  
6 is now in session. The Honourable Mr. Justice Normand  
7 Glaude presiding.

8 Please be seated. Veuillez vous asseoir.

9 **DAVID SILMSER, Resumed/Sous affirmation solennelle:**

10 **THE COMMISSIONER:** Good morning all.

11 **MR. SILMSER:** Good morning.

12 **THE COMMISSIONER:** Good morning, sir.

13 How are you doing today?

14 **MR. SILMSER:** Good.

15 Thank you.

16 **THE COMMISSIONER:** Good.

17 You understand you are still under oath?

18 **MR. SILMSER:** Yes, I do.

19 **THE COMMISSIONER:** All right.

20 Mr. Engelmann?

21 **MR. ENGELMANN:** Mr. Commissioner, I just  
22 wanted a minute before Mr. Lee continues with his cross-  
23 examination. Yesterday, we discussed the issue of errata  
24 with our ---

25 **THE COMMISSIONER:** Right.

1                   **MR. ENGELMANN:** --- court reporters, and the  
2                   inside cover of the January 31<sup>st</sup> transcript now has errata  
3                   from the January 30<sup>th</sup> transcript. There have been some  
4                   changes made to the January 30<sup>th</sup> transcript, page 15, line  
5                   7. I am not going to do this every day but I just want to  
6                   give the example.

7                   **THE COMMISSIONER:** Yes.

8                   **MR. ENGELMANN:** I had asked a question and  
9                   it was written:

10                                   "Can you describe the 'beating'  
11                                   generally and, in particular, I am  
12                                   interested in: Was there someone  
13                                   leading the discussion at the meeting?"

14                   And it should have read:

15                                   "Can you describe the 'meeting'..."

16                   **THE COMMISSIONER:** Okay.

17                   **MR. ENGELMANN:** Okay.

18                   And then, as well, the comment we talked  
19                   about yesterday as to whether it was your comment or Mr.  
20                   Silmser's comment, it was in fact Mr. Silmser's comment.

21                   **THE COMMISSIONER:** All right.

22                   **MR. ENGELMANN:** And that's at page 179,  
23                   line 17.

24                   And there was one other one that was caught  
25                   at page 193, line 4, and that was just a name that was

1 incorrect. The errata are in the transcript for today; the  
2 court reporters have done that and will continue to do  
3 that.

4 I am advised by Mr. Carriere, who is our  
5 local keener in reading transcript from the CAS, that there  
6 were three other mistakes in the transcript where Mr.  
7 Silmsers or I had talked about Greg Bell and the transcript  
8 had read 'Bough', and, of course, that's the other fellow  
9 from the Cornwall police.

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

11 **MR. ENGELMANN:** And that's on page 201, line  
12 16, page 202, line 18 and page 203, line 3. All of those  
13 records they should say Bell not Bough.

14 **THE COMMISSIONER:** Okay.

15 **MR. ENGELMANN:** Those are just a few errata.

16 **THE COMMISSIONER:** Thank you.

17 **MR. ENGELMANN:** I don't think I introduced  
18 someone yesterday, and I apologize to him for that, it's  
19 Tilton Donihee who's here and he is the lawyer for the  
20 Children's Aid Society.

21 **THE COMMISSIONER:** Good morning, sir.

22 **MR. ENGELMANN:** He is here in place of Mr.  
23 Chisholm.

24 **THE COMMISSIONER:** All right.



1                   **MR. ENGELMANN:** That's all I had, and I  
2 understand Mr. Lee is still asking Mr. Silmsers questions.

3                   **THE COMMISSIONER:** Thank you.

4                   **MR. ENGELMANN:** Okay.

5                   **MR. SILMSER:** Good morning.

6                   **THE COMMISSIONER:** Mr. Lee.

7                   **MR. LEE:** Good morning, Mr. Commissioner.

8                   **THE COMMISSIONER:** Good morning, sir.

9                   **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE**

10                   **(Cont'd/suite):**

11                   **MR. LEE:** Good morning, Mr. Silmsers.

12                   **MR. SILMSER:** Good morning.

13                   **MR. LEE:** I just have a few more questions  
14 for you.

15                   **MR. SILMSER:** Okay.

16                   **MR. LEE:** I think where we left off  
17 yesterday, we were discussing the OPP document I had shown  
18 you from October of 2000. I have no more questions on  
19 that. I'd like to move on.

20                   You understand that, eventually, charges  
21 were laid against Father MacDonald.

22                   **MR. SILMSER:** Yes, they were.

23                   **MR. LEE:** In relation to you and then, as  
24 matters progressed eventually, other charges followed in  
25 relation to other persons.

1 Is that correct?

2 **MR. SILMSER:** That's correct.

3 **MR. LEE:** And once those charges were laid,  
4 you began dealing with the Crown Attorney rather than the  
5 police.

6 Is that correct?

7 **MR. SILMSER:** Yes.

8 **MR. LEE:** And we've looked a little bit at  
9 the relationship, I suppose, that you had with Mr.  
10 Pelletier at the time.

11 And, would you agree with me, I think at  
12 times it would be fair to describe that as adversarial?

13 **MR. SILMSER:** That's correct.

14 **MR. LEE:** I'd like to show you one  
15 particular document that I am interested in; it's Document  
16 109253. I'll wait for the clerk to get that to you, but I  
17 can just tell you that it appears to be a memorandum dated  
18 July 19<sup>th</sup> of '96, to Bob, being Bob Pelletier, from Mireille  
19 who, I assume, was his assistant or secretary at the time.

20 **THE COMMISSIONER:** Exhibit number 303 then.

21 **---EXHIBIT NO./PIÈCE NO P-303:**

22 Memo from Mireille to Bob - July 19, 1996 -  
23 Re Father MacDonald.

24 **MR. LEE:** Thank you.

1                   And it's rather short. I'm just going to  
2           read it aloud in the record:

3                   "Received a second call from Mr.  
4                   Silmsers at 11:30 a.m.; wanted to leave  
5                   the message that another victim has  
6                   been located by a private investigator.  
7                   I asked him if the police were made  
8                   aware of this and he said they did not.  
9                   I explained that that that was the  
10                  procedure. I again stated that the  
11                  private investigator had a four and a  
12                  half hour statement from this  
13                  individual. I explained that if he had  
14                  any other comments, he should go  
15                  through his lawyer. He became very  
16                  angry and said that he would not as it  
17                  costs him money each time and that he  
18                  would continue to call this office and  
19                  that if we didn't like it, there would  
20                  be a public inquiry at the end of the  
21                  day. I thanked him for these comments  
22                  and hung up."

23                   **THE COMMISSIONER:** And here we are.

24                                   **(LAUGHTER/RIRES)**

25                   **MR. LEE:** Here we are.

1                   The first issue I suppose is again you're  
2                   being told "Stop calling here; go through you lawyer."

3                   **MR. SILMSER:** That's correct.

4                   **MR. LEE:** And you explained to us yesterday  
5                   the problem with that is that every time you call the  
6                   lawyer, he sends a bill.

7                   **MR. SILMSER:** That's correct.

8                   **MR. LEE:** And I think part of your  
9                   recommendations were that, you know, if you can't call the  
10                  Crown, the Crown refusing to deal with you, at the very  
11                  least give me somebody to talk to who is not going to cost  
12                  me any money.

13                  Is that correct?

14                  **MR. SILMSER:** That's correct.

15                  **MR. LEE:** As I think, we all realized, as I  
16                  was reading that, what I am really interested here is your  
17                  comment that there would be a public inquiry at the end of  
18                  the day. And the reason I am interested is this is 1996;  
19                  this is, you know, 10 years ago ---

20                  **MR. SILMSER:** That's right.

21                  **MR. LEE:** --- and this is -- I mean, and I  
22                  don't say this lightly at all, but comparatively to what we  
23                  know now, it's pretty early in the process. It's three  
24                  years in compared to the 10 years that you ended up dealing  
25                  with this.

1                   **MR. SILMSER:** It's very early for some  
2 people, but it wasn't early for me.

3                   **MR. LEE:** There was a lot of frustration by  
4 this point.

5                   **MR. SILMSER:** Not only frustration! There  
6 is a lot of agencies; there is a lot of police. There is  
7 so much I had gone through to that point, it was  
8 unbelievable.

9                   This is, you know, you might say it was  
10 early, maybe with the information getting out there and  
11 what was going on, but I think -- I don't know how many  
12 years.

13                   Was it four years; four years I was involved  
14 with this.

15                   **MR. LEE:** Ninety-two ('92) was when your  
16 allegations first came on the scene.

17                   **MR. SILMSER:** I think it is.

18                   So it was four years I was involved with  
19 this and in those four years -- there is so much I went  
20 through in those four years. This is right in the middle  
21 of it for me.

22                   **MR. LEE:** And by this time I think the whole  
23 of your evidence, would you agree that it's your opinion,  
24 at this time, in '96, that things haven't been handled  
25 properly?

1                   **MR. SILMSER:** Pardon me?

2                   **MR. LEE:** Things hadn't been handled  
3 properly up until this time.

4                   **MR. SILMSER:** That's 100 per cent correct.

5                   **MR. LEE:** And part of your reaction to this,  
6 it appears from this memorandum, is a recognition that it's  
7 gone bad enough that a public inquiry might be in the  
8 offing.

9                   Is that correct?

10                  **MR. SILMSER:** Well I saw the problems back  
11 then, that things weren't done right. Period! And I don't  
12 know where I came up with the public inquiry. I didn't  
13 even think -- but ---

14                  Actually, I think in the news at that time,  
15 there was a public inquiry about something. And I thought,  
16 well, that would be a good idea to have a public inquiry of  
17 what I've gone through for the last four years.

18                  Because of all the -- I considered a  
19 covering up; not laying charges when they should have been  
20 laid; how I was treated through the whole process in the  
21 four years; how the Catholic Church ignored me in this.

22                  There were so many things that went on that  
23 I thought the only way, probably, to get the truth out  
24 would be through a public inquiry, and here we are.

25                  **MR. LEE:** Here we are.

1 I'd like to move to another area. Yesterday  
2 -- I believe it was yesterday; it could have been the day  
3 before -- during your examination-in-chief by Mr.  
4 Engelmann, there was a brief discussion of your dealings  
5 with Canada Manpower.

6 Do you recall that?

7 **MR. SILMSER:** Yes.

8 **MR. LEE:** And you had some dealings with  
9 that agency while you were on probation.

10 Is that correct?

11 **MR. SILMSER:** The Manpower?

12 **MR. LEE:** Yes.

13 **MR. SILMSER:** I believe I had a meeting with  
14 the Manpower, but I can't remember.

15 **MR. LEE:** And I believe you told Mr.  
16 Engelmann that, off the top of your head, you don't recall  
17 who that meeting would have been with.

18 **MR. SILMSER:** That's right.

19 **MR. LEE:** Does the name Richard Hickerson  
20 mean anything to you in relation to Canada Manpower?

21 **MR. SILMSER:** No, it doesn't.

22 **MR. LEE:** You don't recall having a meeting  
23 with a man by that name?

24 **MR. SILMSER:** I'm not saying I didn't. It  
25 just doesn't ring a bell right now with me.

1                   **MR. LEE:** Do you recall how you came to know  
2 of Canada Manpower?

3                   Were you referred by somebody?

4                   **MR. SILMSER:** Ken Seguin.

5                   **MR. LEE:** Ken Seguin referred you, as you  
6 probation officer?

7                   **MR. SILMSER:** That's correct.

8                   **MR. LEE:** Now, one of the important issues  
9 that we're dealing with at this Inquiry, and it is  
10 important in relation to your evidence, is there have been  
11 suggestions before this Inquiry, and there will be  
12 suggestions at this Inquiry, that some of the problems with  
13 charges being laid and with prosecutions stem from the  
14 suggestion that victims in this community met together,  
15 conspired together and got their story straight if you  
16 will. That victims in this community, at times, made sure  
17 they were on the same page before going to the police.

18                   You've told us a couple of times now, that  
19 you have never met with another victim of abuse and  
20 discussed the details of your abuse.

21                   Is that correct?

22                   **MR. SILMSER:** That's correct. But I don't  
23 know who says said that.

24                   Has the police agency said that?



1                   **MR. LEE:** I can tell you that there will be  
2 suggestions at this Inquiry that ---

3                   **MR. SILMSER:** If anybody suggests something  
4 like that, they better give their head a shake.

5                   **MR. LEE:** My question is have you ever met  
6 with a victim of abuse and gone into the details of your  
7 abuse?

8                   **MR. SILMSER:** Absolutely not!

9                   **MR. LEE:** Have you ever met with a victim of  
10 abuse and gone into the details of his abuse, whoever that  
11 victim might have been?

12                   **MR. SILMSER:** Absolutely not!

13                   **MR. LEE:** At the end of the day, there were  
14 criminal charges laid against Father Charles MacDonald in  
15 relation to nine complainants, including yourself; you were  
16 one of the nine.

17                   **MR. SILMSER:** Okay.

18                   **MR. LEE:** Did you ever sit down with any of  
19 those other eight complainants to, as I say, get your  
20 stories straight?

21                   **MR. SILMSER:** Never.

22                   **MR. LEE:** You have spoken to other victims  
23 of abuse though.

24                   **MR. SILMSER:** Yes, I have.

1                   **MR. LEE:** And we all know now because John  
2                   MacDonald has been here, that you have a friendship with  
3                   John MacDonald, and you've spoke with John MacDonald  
4                   through the years.

5                   **MR. SILMSER:** That's correct.

6                   **MR. LEE:** If you're not discussing details  
7                   of abuse with John MacDonald, what kind of things are you  
8                   discussing?

9                   **MR. SILMSER:** Just the frustrations we have;  
10                  like day-to-day frustrations. Sometimes we don't discuss  
11                  anything about what is going on. We discuss maybe news  
12                  articles that have been out there, back in the past, we --  
13                  lately, every second night or every third night, my wife  
14                  and John, we go to Tim Horton's doughnuts, in Prescott and  
15                  we have a coffee. Once a week or once every two weeks,  
16                  John and I will play pool, in Brockville, for an hour or  
17                  so.

18                  The friendship is basically a support type  
19                  of thing. We don't have to discuss what's going on because  
20                  we know just by the way -- even like the way the person  
21                  looks. I can tell when John's angry or frustrated because  
22                  he's nervous, he's on edge. It's hard to explain unless  
23                  you're a victim of sexual abuse how you understand how  
24                  other people are feeling when they're in this situation.

1                   **MR. LEE:** And there is something to that,  
2                   isn't there, being with another victim who understands?

3                   **MR. SILMSER:** Oh! Definitely!

4                   You don't have to talk about it when they  
5                   understand. You don't have to talk about situations  
6                   because you know automatically and understand how you're  
7                   feeling. So that's one of the things about a back-up. You  
8                   don't have to talk about this thing all the time. You  
9                   don't have to go into any detail whatsoever.

10                  Like John MacDonald went to the Cornwall  
11                  police the other day because he was angry with Pelletier  
12                  and Murray MacDonald and Griffith and he figures there was  
13                  a conflict of interest in that period of time, and that's  
14                  why charges ended by staying because Mr. Pelletier didn't  
15                  call a conflict of interest soon enough even though he knew  
16                  about it back at a later - at an earlier date.

17                  **MR. LEE:** Mr. MacDonald explained a lot of  
18                  that to us while ---

19                  **MR. SILMSER:** Yes. I wasn't with him; I  
20                  didn't discuss it with him. He told me about it. I went  
21                  to the police station with him for support. We met with  
22                  Sergeant White, and Sergeant White, at the end of the day,  
23                  said "I'm sorry".

24                  I didn't say hardly anything at the meeting.  
25                  I don't think I said two words at the meeting. And

1 Sergeant White said to me -- he said "I'm sorry I couldn't  
2 help John." And I said "Well, maybe you did just by  
3 listening to him." That's the type of support I mean with  
4 John. You know, if I need support type of thing, I am  
5 there for him. But to discuss the case, and the details,  
6 and stuff like that, no. No.

7 MR. LEE: And were you receiving that kind  
8 of support from John MacDonald in 1995?

9 MR. SILMSER: Yes, I was.

10 MR. LEE: And you've explained to us that  
11 when you learned that he was also a victim of abuse like  
12 you, you told us you weren't at all pleased he was a victim  
13 of abuse, but you were pretty happy there was somebody else  
14 there with you.

15 Is that right?

16 MR. SILMSER: Well, I was really,  
17 personally, because I took the blunt of it for two years  
18 through the media, people were saying I should be charged  
19 for bringing up allegations. I went through a lot of stuff  
20 even in the Fifth Estate. I believe in the Fifth Estate  
21 documentary, they had women in a circle with a priest  
22 talking about Charles MacDonald, and one woman crying about  
23 Charles MacDonald babysat her son, and that nothing ever  
24 happened and she was crying for Charles MacDonald. And, at  
25 a later date, I heard she walked up to Charles MacDonald

1 and slapped him in the face because she found out he did  
2 abuse her child.

3 Things like that, you know -- I went through  
4 a lot of stuff like that.

5 **MR. LEE:** Mr. Silmsers, those are all the  
6 questions I have for you. I would like to thank you very  
7 much for being here, and I hope things go well for you in  
8 future, sir.

9 Thank you very much.

10 **THE COMMISSIONER:** Thank you.

11 **MR. ENGELMANN:** I don't have my order sheet.

12 **THE COMMISSIONER:** Neither do I.

13 Mr. Lamb?

14 **MR. ENGELMANN:** I don't know if Mr. Bennett  
15 is here.

16 **THE REGISTRAR:** He's not here.

17 **MR. ENGELMANN:** The Men's Project.

18 **THE REGISTRAR:** Mr. Lamb.

19 **MR. ENGELMANN:** Mr. Lamb for Father  
20 MacDonald.

21 **THE COMMISSIONER:** Thank you.

22 **MR. LAMB:** Good morning, Mr. Commissioner.

23 **THE COMMISSIONER:** Good morning.

24 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE BY MR. LAMB:

25 **MR. LAMB:** Good morning, Mr. Silmsers.

1                   **MR. SILMSER:** Good morning.  
2                   Who are you representing?

3                   **MR. LAMB:** As they just stole my thunder,  
4 I'm counsel for Mr. MacDonald -- for Father MacDonald ---

5                   **MR. SILMSER:** Okay.

6                   **MR. LAMB:** --- Father Charles MacDonald.

7                   **MR. SILMSER:** Okay.

8                   **MR. LAMB:** Mr. Silmsers, before -- the first  
9 thing I wanted to address were some comments that you made  
10 yesterday towards the end of your examination in-chief.

11                   The first comment I would like to ask you  
12 about is you stated in your evidence that a lot of the  
13 delays in the trial of Father MacDonald were as a result of  
14 Michael Neville, and you noted that it was in his character  
15 to try and stretch out the case as long as he could be  
16 appealing situations and so forth.

17                   **MR. SILMSER:** That's correct.

18                   **MR. LAMB:** For the record, that's found at  
19 page 95 of the transcript of yesterday's proceedings.

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

21                   **MR. LAMB:** Now, Mr. Engelmann did discuss  
22 things with you, Mr. Silmsers, and you stated that you never  
23 did read the reasons why the proceedings against Father  
24 MacDonald were stayed.

25                   Correct?

1                   **MR. SILMSER:** That's correct.

2                   **MR. LAMB:** So it's fair, and I think it's  
3 fair for me, to say that you were wrong to even suggest  
4 that your understanding for the delays was because of  
5 counsel for Father MacDonald.

6                   **MR. SILMSER:** No. I think you're wrong by  
7 saying that. I was sitting in the courtroom all the way in  
8 Ottawa, and Mike Neville was talking to his client, Charles  
9 MacDonald, and Mike Neville said right in front of me -- he  
10 didn't realize I was sitting in a chair -- that he said  
11 with the actions, with my hands, he said, "In cases like  
12 this, we have to extend it as far as we can."

13                   So I don't think I was wrong.

14                   **MR. LAMB:** Did you -- you never read the  
15 decision of Justice Chilcott though from the Superior Court  
16 of Justice dated May 13, 2002, did you?

17                   **MR. CULIC:** That's been answered, if I  
18 recall correctly.

19                   **THE COMMISSIONER:** Cross-examination though.

20                   **MR. CULIC:** Okay.

21                   **MR. LAMB:** Thank you.

22                   You never read that?

23                   **MR. SILMSER:** I repeated that -- I already  
24 said I didn't.

25                   **MR. LAMB:** Yes. In his written decision, he

1 stats that:

2 "The court found that the actions of  
3 the accused did not affect his right to  
4 trial within a reasonable time."

5 **MR. SILMSER:** Okay.

6 **MR. LAMB:** So none of the actions of the  
7 accused or of his counsel were found to be of any  
8 significance in the fact that a stay of proceedings was  
9 ordered.

10 **MR. SILMSER:** I don't understand.

11 Can you repeat?

12 **MR. LAMB:** None of the actions of the  
13 accused were found to have any effect on the fact that a  
14 stay was ordered in the proceedings before the court.

15 **MR. SILMSER:** That's his decision. I'm just  
16 saying what I heard by Mike Neville in the courtroom ---

17 **MR. LAMB:** But what you heard from Mr.  
18 Neville has nothing to do with the reasons of the court.

19 **MR. SILMSER:** The court makes a decision. I  
20 hear what I hear too.

21 **MR. LAMB:** Okay.

22 But when you say your understanding was that  
23 the reason for the stay of proceedings was because -- most  
24 of the delay was because of Mr. Neville.

25 You're wrong, sir.



1                   **MR. SILMSER:** I say I'm right, sir.

2                   **MR. LAMB:** Now, so you maintain that the  
3 reason the court stayed the criminal proceedings, in May of  
4 2002, against Father Charles MacDonald, was because of the  
5 actions of his counsel?

6                   **MR. SILMSER:** That's correct.

7                   **MR. LAMB:** Okay.

8                   And there's nothing I can say -- there's no  
9 -- even though you haven't read the reasons of the court,  
10 that would convince you otherwise?

11                   **MR. SILMSER:** I would like to say there's  
12 maybe some other reasons, but I say the biggest one is Mike  
13 Neville.

14                   **MR. LAMB:** It was found that Perry Dunlop  
15 caused the largest part of the delay in that case.

16                   **MR. SILMSER:** I have no idea about Perry  
17 Dunlop.

18                   **MR. LAMB:** It was also found that delays in  
19 disclosure before the original trial date, in 2000, were  
20 one of the causes of delay.

21                   **MR. SILMSER:** I don't understand what you  
22 are saying. I'm not a lawyer, sir. You are going to have  
23 to explain, break it down in detail.

24                   **MR. LAMB:** Well, sir, what I'm doing is I'm  
25 simply laying out the fact that ---

1                   **MR. SILMSER:** No, I know what you're doing.  
2           Just your last comments there ---

3                   **MR. LAMB:** Yeah?

4                   **MR. SILMSER:** --- can you break it down and  
5           tell me exactly what it means?

6                   **MR. LAMB:** As you know in a criminal case,  
7           disclosure is required to be produced to the person who is  
8           accused of offences.

9                   **MR. SILMSER:** Okay.

10                  **MR. LAMB:** Okay?

11                  **MR. SILMSER:** Okay.

12                  **MR. LAMB:** And what -- the court, in staying  
13           the charges against Father MacDonald, states that there  
14           were delays in disclosure with regard to five new charges  
15           that were laid in 1998.

16                  **MR. SILMSER:** Delays in disclosure on the --  
17           -

18                  **MR. LAMB:** There was delayed disclosure  
19           until just before the trial in 2000.

20                  **MR. SILMSER:** On whose part?

21                  **MR. LAMB:** The Crown.

22                  **MR. SILMSER:** Oh! The Crown. The Crown  
23           always advised me that none of the delays were his fault  
24           (Mr. Pelletier) through the whole system.

25                  **MR. LAMB:** Okay.

1 But Mr. Pelletier wasn't on the case at that  
2 time.

3 **MR. SILMSER:** Who was on the case?

4 **MR. LAMB:** Well, it wasn't Mr. Pelletier.

5 **MR. SILMSER:** Who was on the case then?

6 What time period are you talking about?

7 **MR. LAMB:** This was Miss Hannan, I believe.

8 **MR. SILMSER:** I have no idea who you are  
9 talking about. There was never a Crown Attorney by that  
10 name.

11 **MR. LAMB:** Maybe I'm misspelling the name.

12 **MR. SILMSER:** Well, then you'll have to show  
13 me the spelling and show me the person you are talking  
14 about because I can't comment if I don't know the person.

15 **MR. LAMB:** Okay.

16 I will come back to it then.

17 The other reasons that the court, when that  
18 decision was made, Mr. Silmsers, was that there was a  
19 finding of irrebuttable prejudice against the accused that  
20 was found because of the 73 months delay going back to  
21 1996, 50 court appearances by Father MacDonald, massive  
22 publicity locally, nationally and internationally.

23 **MR. SILMSER:** Are you trying to make me  
24 feel sorry for him?

25 That also went on my side too, right?

1                   **MR. LAMB:** I'm not trying to make you feel  
2                   sorry for anyone, Mr. Simlser.

3                   **MR. SILMSER:** Okay.

4                   **MR. LAMB:** All I'm stating to you is that  
5                   you stated in your evidence yesterday that a lot of the  
6                   delays were because of Michael Neville.

7                   **MR. SILMSER:** And I commented on that  
8                   already, and you're not going to change my mind on that.

9                   **MR. LAMB:** Okay.

10                   But the court certainly disagrees with you.

11                   **MR. SILMSER:** Maybe -- what court disagrees  
12                   with me?

13                   This court disagrees with me?

14                   **MR. LAMB:** Well, this is a public inquiry  
15                   for the Superior Court of Justice that made the decision --

16                   -

17                   **MR. SILMSER:** Can you tell me the Judge that  
18                   disagreed with me? His name?

19                   **MR. LAMB:** Justice Chilcott ---

20                   **MR. SILMSER:** Okay.

21                   **MR. LAMB:** --- the Superior Court Justice.

22                   **MR. SILMSER:** Okay.

23                   That's one judge that disagreed.

24                   **MR. LAMB:** Okay.

25                   **MR. SILMSER:** That's why we are having an

1 inquiry today.

2 Right?

3 **MR. LAMB:** I don't know.

4 **MR. SILMSER:** I believe so.

5 **MR. LAMB:** You think it's because of the  
6 fact that the matters were stayed?

7 **MR. SILMSER:** I would hope so.

8 **MR. LAMB:** You stated also that none of the  
9 delay was your fault.

10 Correct?

11 **MR. SILMSER:** Personally my fault?

12 **MR. LAMB:** Yes.

13 **MR. SILMSER:** Absolutely! Never of my  
14 fault. I was always a half-an-hour early in the courtroom.  
15 Always there even while I was sick and, again, I can't  
16 comment so much on the Crown Attorney, which was Pelletier,  
17 and Pelletier was the only Crown Attorney at the time. So  
18 your homework hasn't been done properly.

19 **MR. LAMB:** Thank you for that.

20 **MR. SILMSER:** You're welcome.

21 He advised me that it was none of the  
22 Crown's fault. Period!

23 **MR. LAMB:** Your original allegation was made  
24 in late 1992.

25 **MR. SILMSER:** That's correct.

1                   **MR. LAMB:** And in September 1993, you  
2                   received the settlement funds, in Cornwall, correct, the  
3                   \$32,000?

4                   **MR. SILMSER:** That's correct.

5                   **MR. LAMB:** Now, at that point, you refused  
6                   to cooperate with police.

7                   Isn't that correct also?

8                   **MR. SILMSER:** Absolutely not! I cooperated  
9                   with the police all the way through the investigation with  
10                  Heidi Sebalj. I went to every meeting she had, she called  
11                  me for. I sat there for hours upon hours discussing things  
12                  with her. We -- I was patient through the whole process,  
13                  even when there were delays, like three months delays, with  
14                  Heidi Sebalj coming back to me.

15                  And I was 100 per cent cooperative with the  
16                  Cornwall Police. They are the ones who didn't want to lay  
17                  charges. They are the ones who said the case was finished.  
18                  Not myself.

19                  **MR. LAMB:** So you never got upset from the  
20                  calls coming from Constable Sebalj?

21                  **MR. SILMSER:** Pardon me.

22                  **MR. LAMB:** When she called and left messages  
23                  with you, that never upset you?

24                  **MR. SILMSER:** Oh! Definitely! Sometimes it  
25                  upset me.

1                   **MR. LAMB:** And you never stated that you  
2 didn't want to deal with the matters anymore, criminally?

3                   **MR. SILMSER:** When the police said that they  
4 were not going to go further with the charges, they were  
5 dropping the case, the only option I had was to take the  
6 settlement, the \$32,000, because nothing else was being  
7 done.

8                   That was my only option, to keep trying to  
9 find some justice in this situation, and the agreements  
10 that were put in front of me. I did not read some of them.  
11 That's ignorance, I believe, my ignorance. I should have  
12 read them. But, at the time, I was very frustrated, wanted  
13 this thing to end because I was so mad at the Cornwall  
14 Police for not doing a proper investigation and not  
15 following through with it. And so these -- that's when it  
16 ended for me; I thought it had ended for me.

17                   **MR. LAMB:** Okay.

18                   **MR. SILMSER:** Because it had ended for the  
19 Cornwall Police.

20                   Do you have another question or ---

21                   **MR. LAMB:** Yes, I do.

22                   Another area that you addressed late  
23 yesterday during the examination in-chief, Mr. Silmsler, was  
24 going back to the preliminary inquiry. You were talking  
25 about the fact that the Crown, Mr. Pelletier at the time --

1 -

2 MR. SILMSER: Now, you agree it was Mr.  
3 Pelletier?

4 MR. LAMB: This is in 1997 at the  
5 preliminary inquiry.

6 MR. SILMSER: And now you know the dates of  
7 the Crown Attorneys?

8 I'm just asking because you were mixed up  
9 before about dates and Crown Attorneys at the time. So I'm  
10 just asking and now you know the dates and the Crown  
11 Attorneys who did it.

12 THE COMMISSIONER: Okay.

13 Hold on now!

14 You are quite correct in the sense that  
15 first of all, he doesn't recall who the Crown Attorney was  
16 that replaced Mr. Pelletier.

17 Okay?

18 So now, he's going back and he's talking  
19 about in the Pelletier era.

20 MR. SILMSER: But he didn't give me a date  
21 when the Crown replaced Mr. Pelletier.

22 THE COMMISSIONER: Yes, well ---

23 MR. SILMSER: And I asked him for that time  
24 period, and he didn't know what time period.

25 So how am I supposed to know what Crown



1 Attorney took place at the time?

2 **THE COMMISSIONER:** Okay.

3 Well, first of all, we are going to go back  
4 to basics.

5 Okay?

6 This gentleman is asking you questions.

7 All right.

8 And you have a lawyer here, and I'm here.

9 Mr. Engelmann is here to make sure that he asks proper  
10 questions.

11 All right.

12 And, so far, other than the fact that he may  
13 have repeated a question a couple of times, and I'm giving  
14 him a little bit of leeway, he has been fair.

15 Okay?

16 In asking you questions.

17 So what I am going to ask you is just sit  
18 back and answer the questions the best you can. So I ---

19 **MR. SILMSER:** I disagree with that.

20 **THE COMMISSIONER:** Why is that?

21 **MR. SILMSER:** Because if I don't answer the  
22 questions exactly, the truthful of the questions ---

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

24 **MR. SILMSER:** --- and precisely the  
25 questions, people put a spin on it.

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

2                   **MR. SILMSER:** The newspaper puts a spin on  
3                   it.

4                   **THE COMMISSIONER:** Right.

5                   **MR. SILMSER:** The media puts a spin on it.  
6                   And that's what I don't want to happen.

7                   **THE COMMISSIONER:** Okay.

8                   Well, there's one problem with that.

9                   **MR. SILMSER:** Okay.

10                  **THE COMMISSIONER:** All right.

11                  I don't care what the media says.

12                  **MR. SILMSER:** I do care.

13                  **THE COMMISSIONER:** Ah! Except that there's  
14                  one thing. This is on the web cast.

15                  Right?

16                  It's on COGECO. People can see what you're  
17                  saying. And what I told people was that if people want to  
18                  come to this Inquiry to listen to facts. So all I'm  
19                  interested in is what you're telling me here today.

20                  All right?

21                  Not what spin is going to be put on it,  
22                  because I'm the one who is writing the report.

23                  **MR. SILMSER:** But, again, I do care. I'm a  
24                  victim here ---

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

1                   **MR. SILMSER:** --- sitting here on my --  
2                   supposedly on my own free will, giving testimony.

3                   **THE COMMISSIONER:** Yes.

4                   **MR. SILMSER:** And I do care ---

5                   **THE COMMISSIONER:** Right.

6                   **MR. SILMSER:** --- the spin that these  
7                   lawyers are trying to put on things.

8                   **THE COMMISSIONER:** Well, first of all, the  
9                   spin -- he's asking questions and so far your lawyer and  
10                  Mr. Engelmann have not objected. So that should be an  
11                  indication to you that ---

12                  **MR. SILMSER:** But I have objected to a few  
13                  things.

14                  **THE COMMISSIONER:** All right.

15                  **MR. SILMSER:** Number one was when Mike  
16                  Neville -- when you try to tell me that Mike Neville made  
17                  no delays on this thing ---

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

19                  **MR. SILMSER:** --- and I knew for a fact he  
20                  did. He was trying to put a spin on a few things and I'm  
21                  just trying to tell him exactly what went wrong.

22                  **THE COMMISSIONER:** All right.

23                  And what he's done is he stopped asking  
24                  those questions.

1                   **MR. SILMSER:** But he will ask more like  
2                   that.

3                   **THE COMMISSIONER:** Well ---

4                   **MR. SILMSER:** I guarantee you.

5                   **THE COMMISSIONER:** I am the gatekeeper here.  
6                   All right?

7                   And I will determine what questions are  
8                   relevant or not, with the assistance of the lawyers that  
9                   are here.

10                  **MR. SILMSER:** And I will answer where I  
11                  think the truth will come out the best.

12                  **THE COMMISSIONER:** And I will direct you to  
13                  answer the questions that I think are important for me to  
14                  hear the answers to.

15                  **MR. SILMSER:** Okay.

16                  **THE COMMISSIONER:** All right.

17                  So good!

18                  So now we're back to the preliminary  
19                  inquiry.

20                  All right?

21                  Mr. Silmsen?

22                  We're back -- he's going back to the  
23                  preliminary inquiry.

24                  **MR. SILMSER:** Okay.

1                   **THE COMMISSIONER:** And we know for a fact  
2                   that Mr. Pelletier was the prosecutor or the Crown Attorney  
3                   at that time.

4                   Right?

5                   **MR. SILMSER:** That's correct.

6                   **THE COMMISSIONER:** Okay.

7                   What's your question?

8                   **MR. LAMB:** Thank you, Mr. Commissioner.

9                   When you were giving your evidence, Mr.  
10                  Silmsers, with regard to the preliminary inquiry yesterday,  
11                  you stated that:

12                                "The only objection was when I caught  
13                                Neville in a lie and I made him go back  
14                                to another document and he turned beet  
15                                red and he asked if he could have a  
16                                recess and the judge said 'You don't  
17                                get a recess. The victim gets a  
18                                recess'."

19                  **MR. SILMSER:** That's correct.

20                  **MR. LAMB:** Okay.

21                  Now, I'm going to ask you to look at a  
22                  document, and it's one of the transcripts from the  
23                  preliminary inquiry. It's -- 738202 is the document number  
24                  that ---

1                   **THE COMMISSIONER:** What's the exhibit  
2                   number?  
3                   **MR. LAMB:** Sorry, Mr. Commissioner.  
4                   **THE REGISTRAR:** Seven three eight two zero  
5                   two (738202)?  
6                   **MR. LAMB:** Yes.  
7                   **THE REGISTRAR:** Exhibit 291.  
8                   **THE COMMISSIONER:** Two-ninety-one (291).  
9                   **MR. LAMB:** Exhibit 291.  
10                  **THE COMMISSIONER:** Okay.  
11                  What page?  
12                  **MR. LAMB:** I'm sorry, Mr. Commissioner.  
13                  **THE COMMISSIONER:** What page of the  
14                  transcript?  
15                  **MR. LAMB:** Yes, it's page 33.  
16                  And is that the -- forgive me, Mr.  
17                  Commissioner.  
18                  Is it the Bates number?  
19                  **THE REGISTRAR:** Bates number.  
20                  **MR. LAMB:** Is that the number carried in the  
21                  top left-hand corner of these documents?  
22                  So it's Bates number 7164541 -- no, sorry,  
23                  7164542.  
24                  **THE COMMISSIONER:** So 32 and 33, Mr.  
25                  Silmsers.

1                   **MR. SILMSER:** Pardon me.

2                   **THE COMMISSIONER:** I think he's at page 32  
3                   and 33 ---

4                   **MR. SILMSER:** Okay.

5                   **THE COMMISSIONER:** --- of the preliminary  
6                   inquiry.

7                   **THE REGISTRAR:** Just 33.

8                   **THE COMMISSIONER:** Just 33.

9                   All right.

10                  **MR. LAMB:** I just wanted to direct you here,  
11                  Mr. Silmsers. This is a break in the proceedings. At line  
12                  22 Mr. Neville states:

13                                 "Can we take five minutes, please, Your  
14                                 Honour?"

15                  And the Court says:

16                                 "Mr. Neville, perhaps we could continue  
17                                 until the normal lunch recess at  
18                                 12:30."

19                  Mr. Neville states:

20                                 "I can't. I'd like five minutes."

21                  And, of course, this is a personal request.

22                  Mr. Neville answers:

23                                 "Yes. Of course, it's all right.

24                                 We'll take five minutes."

25                  And there's a five minute recess.

1                   But in reviewing that transcript, Mr.  
2                   Silmsers, I see nothing of lies.

3                   **MR. SILMSER:** You haven't read the whole  
4                   transcript then. And that's not the recess that I was  
5                   talking about.

6                   **MR. LAMB:** Can you tell me which recess it  
7                   was so that ---

8                   **MR. SILMSER:** I'd have to go through the  
9                   whole file and that would probably take me approximately a  
10                  day.

11                  **MR. LAMB:** Well, I've gone through all those  
12                  transcripts, Mr. Silmsers.

13                  **MR. SILMSER:** Yes, but I'm not going to take  
14                  your word for it.

15                  **THE COMMISSIONER:** Just a minute! Just a  
16                  minute!

17                  Wait until he asks the question and then you  
18                  can answer.

19                  Mr. Lamb.

20                  **MR. LAMB:** I've gone through the transcripts  
21                  and I find nothing.

22                  **MR. SILMSER:** Then you're not a very good  
23                  lawyer.

24                  **THE COMMISSIONER:** No, no. No, no, sir.

25                  **MR. SILMSER:** No. No, no.



1                   **THE COMMISSIONER:** No, no. In fairness ---

2                   **MR. SILMSER:** It was there and if he hasn't  
3 found nothing, he hasn't done his job properly.

4                   **THE COMMISSIONER:** Well, the answer to that  
5 is instead of saying inflammatory things like that is say  
6 "Then you're in error."

7                   All right?

8                   You know?

9                   **MR. SILMSER:** I say it the way I see it and  
10 I say it the way I feel it.

11                   I'm sorry.

12                   I'm not going to be told what to say and  
13 what not to say in this courtroom.

14                   **THE COMMISSIONER:** Well, I'll tell you one  
15 thing, sir, I have made it a rule here that we treat  
16 everybody with dignity and respect.

17                   **MR. SILMSER:** And as far as I'm concerned  
18 that was as dignified as I could be with that man.

19                   **THE COMMISSIONER:** Well, then for the  
20 record, I'm going to tell you that while Mr. Lamb is acting  
21 for Father MacDonald, and there is obviously a difficulty  
22 there, Mr. Lamb is presenting himself in a calm fashion and  
23 he's asking polite questions. And so I would ask you  
24 simply to be as polite as you can when you're answering  
25 your questions.

1                   **MR. SILMSER:** I'll try as hard as I can.

2                   **THE COMMISSIONER:** Thank you.

3                   Okay.

4                   **MR. CULIC:** I would like a five minute break  
5 to speak to my client.

6                   **THE COMMISSIONER:** All right.

7                   Mr. Callaghan.

8                   **MR. CALLAGHAN:** I thought the rule was --  
9 well, I'd like to know the grounds as to why he needs to  
10 speak to his client.

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

12                   **MR. CALLAGHAN:** But I thought the ground --  
13 there weren't ---

14                   **MR. SILMSER:** I'm taking a break now.

15                   **THE COMMISSIONER:** No, no ---

16                   **MR. SILMSER:** They can put me in jail. I'm  
17 taking a break now.

18                   **MR. CULIC:** Well, I should think it's  
19 readily obvious why I've asked for a five minute break, Mr.  
20 Commissioner.

21                   **THE COMMISSIONER:** All right.

22                   And that is to speak to your client with  
23 respect to how to give evidence and then ---

24                   **MR. CULIC:** Correct. Not ---

25                   **THE COMMISSIONER:** Not to discuss any ---

1                   **MR. CULIC:** Of course not!

2                   **THE COMMISSIONER:** Okay.

3                   Let's take 15 minutes and then we'll see  
4 where it goes.

5                   **MR. CULIC:** Thank you.

6                   **THE REGISTRAR:** Order; all rise. À  
7 l'ordre; veuillez vous lever.

8                   The hearing will resume at 10:30 p.m.

9 --- Upon recessing at 10:16 a.m./

10                   L'audience est suspendue à 10h16

11 --- Upon resuming at 11:10 a.m./

12                   L'audience est reprise à 11h10

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

15                   Please be seated. Veuillez vous asseoir.

16                   **THE COMMISSIONER:** Thank you.

17                   Mr. Engelmann.

18                   **MR. ENGELMANN:** Mr. Commissioner, Mr.

19 Silmsers is in our witness support room right now. His  
20 counsel wishes to address you.

21                   **THE COMMISSIONER:** Thank you.

22                   Yes, Mr. Culic.

23                   **MR. CULIC:** Thank you.

24                   First of all, Mr. Commissioner, I want to  
25 get clear on the record that Mr. Lamb did nothing wrong ---

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

2                   **MR. CULIC:** --- and that this has nothing to  
3 do with him, his demeanor, or the nature of the questions  
4 he asked. It's everything to do with who he represents and  
5 who Mr. Silmser really sees standing here.

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

7                   **MR. CULIC:** I'm asking for an adjournment  
8 until Monday -- Monday afternoon. I'm going to attempt my  
9 best, with the resources available to us, to get him some  
10 very quick and effective, hopefully, anger management.

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

12                   **MR. CULIC:** Otherwise, in frank sincerity,  
13 Mr. Commissioner, I don't think he can survive anymore  
14 cross-examination without it.

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

16 All right.

17 Thank you.

18 So there's a request for an adjournment.

19 Any comments from any of the parties?

20 All right.

21 What I'd like to say at this point is that  
22 when I started out with this Inquiry, and knowing that we  
23 would be asking some alleged victims and victims to come  
24 and testify, that one of the situations we might run into  
25 is something that we've run into today.

1 I think if we've learned something is, if we  
2 go back to the context evidence of Dr. Jaffe and Dr. Wolfe,  
3 is that we have to be very much alive to situations such as  
4 this and to respect peoples' needs for some time.

5 And also we are all in a very difficult  
6 inquiry and we'll have to be sensitive to the needs of all  
7 parties, all the while understanding that there is work to  
8 be done and, hopefully, that Mr. Silmsers will be well  
9 enough to come on Monday.

10 I would hope that he would attend on Monday  
11 either to testify or to talk about how we're going to  
12 handle this thing. So you might want to extend my  
13 invitation for him to come here at 2:00 o'clock.

14 **MR. CULIC:** I will do so.

15 **THE COMMISSIONER:** Thank you.

16 So in the meantime, I don't know that  
17 anything untoward should be taken by what occurred either  
18 by Mr. Silmsers' demeanor or his comments. I think it's a  
19 question of, again, being sensitive and understanding the  
20 needs of all the parties here in this Inquiry.

21 So that having been said, I think it's wise  
22 that we adjourn. I don't know that there are any other  
23 items that we can fill the day with.

24 **MR. ENGELMANN:** There are not, sir.

25 Obviously, this was unexpected.

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

2                   **MR. ENGELMANN:** Perhaps if counsel has a few  
3 minutes -- have a few minutes, we could just meet now for a  
4 few minutes privately and we can talk about where we're  
5 going.

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

7                   Thank you.

8                   We'll see you at 2:00 on Monday.

9                   **THE REGISTRAR:** Order; all rise. À  
10 l'ordre; veuillez vous lever.

11                   The hearing is now adjourned. L'audience  
12 est ajournée.

13 --- Upon adjourning at 11:14 a.m./

14                   L'audience est ajournée à 11h14

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C E R T I F I C A T I O N

I, Jamie Savard 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, Jamie Savard, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hauts sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.

*Jamie Savard*

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Jamie Savard, CR