

**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 335

Held at :

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

Thursday, January 15, 2009

Tenue à:

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

Jeudi, le 15 janvier 2009

Appearances/Comparutions

Ms. Brigitte Beaulne	Registrar
Ms. Mary Simms	Commission Counsel
Mr. Peter Manderville	Cornwall Community Police Service and Cornwall Police Service Board
Ms. Diane Lahaie	Ontario Provincial Police
Mr. Darrell Kloeze	Attorney General for Ontario
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
M ^e Gisèle Levesque	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Michael Neville	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Mr. Lorne McConnery	

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1 --- Upon commencing at 9:37 a.m./

2 L'audience débute à 9h37

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, Commissioner, presiding.

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you. Good morning,
10 all.

11 Mr. McConnery, how are you doing? You
12 understand you're still under oath?

13 **MR. McCONNERY:** Absolutely.

14 **THE COMMISSIONER:** Thank you.

15 **LORNE McCONNERY, Resumed/Sous le même serment:**

16 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**

17 **HORN:**

18 **MR. HORN:** Yes, yesterday I was questioning
19 you about a couple of individuals who had been -- what I
20 was saying corroborated Mr. Leroux's evidence. And there's
21 one statement here. It's Exhibit C-613 and it's a
22 statement by C-8 to Mr. Dupuis.

23 **(SHORT PAUSE/COURTE PAUSE)**

24 **THE COMMISSIONER:** What page, Mr. Horn?

25 **MR. HORN:** Well, there is some mention about

1 boats at page 10, at the bottom of it, page 10 out of 27.

2 **THE COMMISSIONER:** Okay, so page 10 of 24?
3 Where do you want to go?

4 **MR. HORN:** It would be -- about halfway down
5 there is a mention about going to Malcolm's with Ken in a
6 boat.

7 **THE COMMISSIONER:** Okay.

8 **MR. HORN:** And this is in answer to
9 questions regarding going to Malcolm's because Ken was in
10 one location and Malcolm had a cabin somewhere else and
11 they would go there by boat.

12 **THE COMMISSIONER:** Right.

13 **MR. HORN:** There's a mention here of going -
14 - C-8 going back and forth to the boat. And he also speaks
15 of ---

16 **MR. McCONNERY:** I'm sorry. I'm not seeing
17 that on the page that ---

18 **THE COMMISSIONER:** Well, it's on page 10 of
19 24.

20 **MR. McCONNERY:** Yes. Is that one that
21 starts:

22 "Was there only the one tape?"

23 **THE COMMISSIONER:** Yeah, that's the page.
24 That's what he's telling us.

25 **MR. McCONNERY:** Okay.

1 **THE COMMISSIONER:** So all we're talking
2 about there is signs.

3 **MR. McCONNERY:** Yes, I don't see anything
4 about a boat.

5 **MR. HORN:** Are we on the right document
6 here?

7 **THE COMMISSIONER:** Well, you sent us to 613?

8 **MR. HORN:** Six-one-three (613).

9 **THE COMMISSIONER:** Yeah, Exhibit 613.

10 **MR. HORN:** At the bottom. It would be page
11 10 at the bottom.

12 **THE COMMISSIONER:** Page 10 of 24.

13 **MR. HORN:** Of 27.

14 **THE COMMISSIONER:** Well, okay. Exhibit C-
15 613 is ---

16 **MR. HORN:** Oh, it must be the wrong one
17 then. It must be the wrong document because I've got C --
18 or Document Number 116182.

19 **THE COMMISSIONER:** No, that isn't the
20 exhibit. The Exhibit C-613 is 111497.

21 **MR. HORN:** Oh, okay. There are two
22 different documents then. But it's a statement from C-6 to
23 Dupuis.

24 **THE COMMISSIONER:** Thank you.

25 Mr. Lee.

1 **MR. McCONNERY:** From C-6?

2 **THE COMMISSIONER:** No, no, just ---

3 **MR. LEE:** I'll just share some of the blame
4 here, sir. Mr. Horn asked me for some assistance with the
5 exhibit number. I believe we're looking at C-616.

6 **THE COMMISSIONER:** C-616.

7 **MR. LEE:** Apparently, C-8 did two interviews
8 on that day.

9 **THE COMMISSIONER:** Yes.

10 **MR. LEE:** And I gave you the wrong one.

11 **THE COMMISSIONER:** Well, no, C-616 is a
12 transfer deed.

13 **MR. HORN:** Okay.

14 **THE COMMISSIONER:** Okay. So now 615 ---

15 **MR. HORN:** Six-two-six (626)?

16 **THE COMMISSIONER:** I'm sorry?

17 Yeah, okay, 626. There we go.

18 So that's another audio-taped interview
19 report taken of C-8 -- let's not forget that -- 10th of
20 December, 1998.

21 Now, you want us to go to page 10, Mr. Horn?

22 **MR. HORN:** Yes.

23 **THE COMMISSIONER:** So where do you want this
24 to lead us, Mr. Horn? Help me out.

25 **MR. HORN:** Okay. We're talking about have

1 you ever seen ---

2 **THE COMMISSIONER:** Where, what page?

3 **MR. HORN:** He's talking about Ron Wilson.

4 And have you ever seen Ron Wilson at Malcolm's and he just
5 tells him that he has gone to Malcolm's cabin by boat.

6 **THE COMMISSIONER:** Okay.

7 **MR. HORN:** And he went over with Ken in a
8 boat.

9 **THE COMMISSIONER:** Okay. So -- I'm sorry?
10 It's the previous page at the bottom? Right, it's 9 of 27
11 there.

12 **MR. McCONNERY:** I see that.

13 **THE COMMISSIONER:** Okay.

14 **MR. HORN:** No, that's just dealing with the
15 fact that he's been there. He's taking boats across to
16 Malcolm from Ken's, but he does also in the statement talk
17 of seeing Father Maloney there.

18 **THE COMMISSIONER:** Where?

19 **MR. HORN:** That would be at page 1 and page
20 3.

21 **THE COMMISSIONER:** Okay, page 1.

22 **MR. HORN:** Yes, "Do you know him?" -- that's
23 page 3 and they're talking about Father Maloney being at
24 these dinner parties.

25 **THE COMMISSIONER:** Yeah, but that's at

1 Father Charlie's.

2 MR. HORN: At the top.

3 THE COMMISSIONER: M'hm.

4 MR. HORN: Third line down, Father Maloney -

5 --

6 THE COMMISSIONER: "Was Father Kevin
7 Maloney ever present at these dinner
8 parties?"

9 MR. HORN: I would say yes.

10 THE COMMISSIONER: "To say 100 percent I
11 can't really -- like I say, we're going
12 back a long ways for me to remember
13 exactly."

14 Then C-8 says he went to Father Charlie's.
15 That has nothing to do, so far, with Father Maloney being
16 on the island.

17 MR. HORN: He's been at the parties.
18 They're talking about having dinner parties at Ken
19 Seguin's, Malcolm's and at the church. There was like a
20 group that would meet at three different places at the St.
21 Andrew's Church there.

22 THE COMMISSIONER: Mr. Horn, okay, I gave
23 you overnight. I think the idea is to show this gentleman
24 that there are other people that were saying that they had
25 seen some of the prominent citizens either at Ken Seguin's

1 or at Malcolm MacDonald's cottage. That's really what
2 we're interested in here now.

3 MR. HORN: Okay, if you look at page 5?

4 THE COMMISSIONER: Okay, right.

5 MR. HORN: He does mention:

6 "I've seen Bishop LaRocque at Ken
7 Seguin's."

8 THE COMMISSIONER: Okay, there you go.

9 MR. HORN: Yes.

10 THE COMMISSIONER: That's one, and then he -
11 - and then C-8 says:

12 "I seen Claude Shaver at Ken Seguin's."

13 MR. HORN: Right.

14 Oh, first of all, did you ever see this
15 document?

16 THE COMMISSIONER: Good question.

17 MR. McCONNERY: Yeah, I believe so, but you
18 know I don't have a mental picture of every document, every
19 specific document. I would have thought this interview
20 would have been part of -- excuse me -- the brief that I
21 was presented with though.

22 MR. HORN: Okay.

23 MR. McCONNERY: And certainly I would have
24 read it.

25 MR. HORN: You would have read it?

1 **MR. McCONNERY:** If it was in that package.
2 I certainly believe it was. Do I have a specific recall of
3 it, no, I don't.

4 **MR. HORN:** Okay.

5 We don't really have time to go over the
6 document but it does talk about -- there's a lot of
7 discussion. Ron Leroux was there. There's parties. They
8 meet at Malcolm's. They go across on boats. This is all
9 discussed by C-8. Do you recall that interview with that
10 kind of information being given?

11 **MR. McCONNERY:** Yes, I do.

12 **MR. HORN:** Okay.

13 **MR. McCONNERY:** I do.

14 **MR. HORN:** And the parties that were
15 involved and you were doing an analysis, did you take that
16 into account, that this is another individual besides Mr.
17 Leroux who is giving evidence regarding these people?

18 **MR. McCONNERY:** When I was aware of what C-8
19 was saying, when I read his information, I did not see it
20 in any way as corroborating, confirming or disproving what
21 Ron Leroux said about that weekend in August.

22 What he talks about is some people were at
23 the cottage and may have gone to Malcolm MacDonald's
24 cottage, but it had nothing to do with the timeframe of the
25 allegation of the conspiracy to obstruct.

1 **MR. HORN:** Okay. Did you take into account
2 that it does indicate that these people do get together at
3 Ken Seguin's, at Malcolm's, and that the people that you
4 were assessing or doing an analysis on were going to those
5 two places?

6 **MR. McCONNERY:** I -- sorry.

7 **MS. LEVESQUE:** Mr. Commissioner, the Bishop
8 has testified he was never at Ken Seguin's house. We have
9 his viva voce evidence.

10 **THE COMMISSIONER:** Yes. So?

11 **MS. LEVESQUE:** Well ---

12 **THE COMMISSIONER:** That's not the point, Ms.
13 Levesque.

14 The point is this gentleman is doing an
15 institutional response. He's looking at briefs. The idea
16 that we have now is he's saying, "I discounted Mr. Leroux".
17 It has nothing to do with the truth. It has to do with
18 what he had in his mind.

19 So what the Bishop said here with respect to
20 this point is irrelevant.

21 **MS. LEVESQUE:** Okay. Thank you.

22 **THE COMMISSIONER:** Thank you.

23 Okay. But, Mr. Horn, you can't just put it
24 that way. I mean, on page 15 of 27, at the top of the
25 page, Constable Dupuis or Detective Dupuis says:

1 "Have you ever been at any gatherings
2 or party at or near Cameron's Point
3 involving any of the aforementioned
4 people?"

5 C-8 says:

6 "At Cameron's Point? No, not that I
7 remember."

8 **MR. HORN:** Okay.

9 **MR. McCONNERY:** Mr. Commissioner, can I ask,
10 is Cameron's Point ---

11 **THE COMMISSIONER:** Stanley Island.

12 **MR. McCONNERY:** Is Stanley Island.

13 **THE COMMISSIONER:** Where Malcolm MacDonald's
14 cottage was, where the VIP meeting was supposed to have
15 taken place.

16 **MR. McCONNERY:** Okay.

17 **THE COMMISSIONER:** Okay?

18 **MR. McCONNERY:** Yes.

19 **MR. HORN:** And there's evidence that they
20 take boats across to Stanley Island from Ken Seguin's.
21 That's in this statement. The fact that they're taking
22 boats, does that in any way give some credence to what Mr.
23 Leroux was saying, that they take boats across to Malcolm
24 MacDonald's from Ken Seguin's and that there's a
25 relationship there?

1 **MR. MANDERVILLE:** Mr. Commissioner?

2 **THE COMMISSIONER:** Yes.

3 **MR. MANDERVILLE:** I am told by a very
4 reliable source that Cameron's Point and Stanley Island are
5 two different locations. Cameron's Point, if you recall --
6 -

7 **THE COMMISSIONER:** Oh, I'm sorry, of course.

8 **MR. MANDERVILLE:** Cameron's Point, if you
9 recall, was the 1961 gathering.

10 **THE COMMISSIONER:** Yes, of course. I am
11 totally -- yes, of course. Of course. Sorry.

12 Cameron's Point is a totally different thing
13 than Stanley Island. Cameron's Point ---

14 **MR. McCONNERY:** I thought it was.

15 **THE COMMISSIONER:** Sorry. That was me.

16 **MR. HORN:** Stanley Island is where Malcolm
17 MacDonald has a cabin. Okay?

18 **MR. McCONNERY:** Yes.

19 **MR. HORN:** And people take boats to go there
20 from Ken Seguin's and they go there in groups. That
21 evidence -- if you're aware that Bishop LaRocque and others
22 were going to Malcolm MacDonald's, did that in any way
23 strengthen your belief that Mr. Leroux may be telling the
24 truth?

25 **MR. McCONNERY:** I don't have a recollection

1 of ever seeing evidence that Bishop LaRocque had come to
2 Ken Seguin's home and then taken a boat to the island.

3 I believe I saw -- aside from -- I'm trying
4 to be more cautious about the proper way to refer to people
5 -- it seems to me that there was evidence from Mr. Leroux
6 and maybe one source, other source, maybe two, that Bishop
7 LaRocque, in their story, in their statement, had been seen
8 at Ken Seguin's. I don't recall anything that said that
9 Bishop LaRocque went to the island cottage of Mr.
10 MacDonald.

11 But the greater question you're asking me
12 is, did I find that some confirmation and I think you even
13 said ---

14 **MR. HORN:** Corroboration.

15 **MR. McCONNERY:** --- corroboration? No, I
16 certainly didn't.

17 **THE COMMISSIONER:** Okay. So let's put it at
18 -- page 19 of 27.

19 **MR. McCONNERY:** Okay.

20 **THE COMMISSIONER:** Page 19, it says -- C-8
21 says -- Dupuis says:

22 "What about Bishop LaRocque?"
23 Meaning has he ever been there.

24 **MR. McCONNERY:** I'm sorry, 19?

25 **THE COMMISSIONER:** Page 19.

1 **MR. McCONNERY:** Yes, okay.

2 **THE COMMISSIONER:** "What about Bishop
3 LaRocque?"

4 C-8 answers:

5 "He's been at Ken's, but I don't
6 remember seeing him at Malcolm's.
7 Actually -- and I see it -- it's hard
8 to remember it because I remember being
9 out in the boat and stuff and I've seen
10 people there. I just can't -- I can't
11 place it."

12 **MR. McCONNERY:** Correct.

13 **THE COMMISSIONER:** All right?

14 So at best -- and I think we're looking more
15 at building blocks, okay, in the sense that what we've got
16 here is someone saying that, "I saw the Bishop at Ken
17 Seguin's place". And we know that Ken Seguin's place is
18 the landing place for the boat to go to Stanley Island.

19 **MR. McCONNERY:** Yes.

20 **THE COMMISSIONER:** Okay. So as a building
21 block, would you not say, "Well, wait a minute here, the
22 Bishop says he's never been there, including Ken Seguin's
23 place"? We've got C-8 and Leroux so far saying the Bishop
24 was at Ken Seguin's place.

25 Is that not like a little alert to say,

1 "Well, wait a minute here. Can we build on that because
2 the Bishop is saying that he wasn't there and this fellow
3 is saying he was there, that there might be more to it than
4 appears"?

5 **MR. McCONNERY:** Well, I can certainly tell
6 you that I didn't use it as a building block in support of
7 the allegation of conspiracy and a conspiratorial meeting
8 on the last weekend of August of 1993.

9 I realized there was conflicting positions
10 taken by a number of people about who might or might not
11 have been at Ken Seguin's home. I don't recall very
12 specific evidence that any one of them ever was mentioned
13 or there was evidence to support Mr. Leroux they had been
14 to the cottage and there was nothing to support them having
15 been to the cottage on that weekend. In fact, I thought
16 the evidence that LaRocque wasn't and couldn't have been --
17 Bishop LaRocque, I'm sorry -- was quite compelling.

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

19 **MR. HORN:** Okay. Now, what about Exhibit
20 544?

21 **MR. McCONNERY:** Are there two sets of
22 exhibits, like C ---

23 **MR. HORN:** No, this is regarding Mr.
24 Renshaw's evidence.

25 **THE COMMISSIONER:** And your question, sir,

1 was?

2 **MR. McCONNERY:** Are there "C" exhibits and
3 then other exhibits or just some of them are numbered with
4 a "C"?

5 **THE COMMISSIONER:** "C" means confidential.

6 **MR. McCONNERY:** Okay. So is that what
7 you're referring me to?

8 **THE COMMISSIONER:** No, now he's going to a
9 500 exhibit.

10 **MR. HORN:** That's right, Mr. Renshaw's
11 evidence.

12 **THE COMMISSIONER:** What's the exhibit
13 number, sir?

14 **MR. HORN:** Five-four-four (544).

15 **(SHORT PAUSE/COURTE PAUSE)**

16 **THE COMMISSIONER:** Yes, 544, Statement of
17 Gerald Wesley Renshaw.

18 **MR. HORN:** Now, I understand this is a
19 document involving the statements that were made from Mr.
20 Renshaw to Dunlop.

21 **MR. McCONNERY:** This is not C-15?

22 **MR. HORN:** No.

23 **THE COMMISSIONER:** No, this is Renshaw.

24 **MR. McCONNERY:** The other. Okay.

25 **MR. HORN:** And from what I understand --

1 now, there was questions. Mr. Renshaw did give testimony
2 and they were referring to this particular document. And I
3 don't know if -- there's a transcript that he's asked
4 specifically the question regarding whether he had seen Mr.
5 LaRocque go to Malcolm's cottage by boat.

6 **MR. McCONNERY:** I'm sorry, are you referring
7 me to something?

8 **MR. HORN:** I'm just saying that ---

9 **THE COMMISSIONER:** No, you have to refer to
10 something, sir.

11 **MR. HORN:** Okay. All right. The document
12 here, Mr. Renshaw was questioned before the Commission and
13 there was questions regarding this particular document and
14 what he had told Mr. Dunlop.

15 And in it -- in the -- coming before the
16 Commission, he did indicate that he had seen Bishop
17 LaRocque going to Malcolm's and he was going across and
18 that he'd seen him there.

19 Now, this document itself ---

20 **THE COMMISSIONER:** Which document, sir?

21 **MR. HORN:** I'm talking about the one that's
22 here that we're looking at.

23 **THE COMMISSIONER:** Five-four-four (544).

24 **MR. HORN:** Yes. I don't know -- I haven't -
25 - how many pages was that?

1 **THE COMMISSIONER:** Fifteen (15), sir.

2 **MR. HORN:** Fifteen (15) pages.

3 I'm only referring to the transcript of the
4 public inquiry in which there was -- he was questioned on
5 that. And Mr. Renshaw was questioned on that and I don't
6 know if we should put -- go to the interview or the
7 testimony of Mr. Renshaw.

8 **THE COMMISSIONER:** Mr. Horn, the same I told
9 to Ms. Levesque, the idea here is to see what this
10 gentleman had in assessing ---

11 **MR. HORN:** Okay.

12 **THE COMMISSIONER:** --- whether there was
13 reasonable and probable grounds.

14 **MR. HORN:** Okay.

15 **THE COMMISSIONER:** Right? So what Mr.
16 Renshaw said at the inquiry, I think at this point in this
17 question, is irrelevant.

18 **MR. HORN:** Okay.

19 **THE COMMISSIONER:** What we have to look --
20 can you look at 544, sir?

21 **MR. McCONNERY:** Five-four-four (544) I have,
22 yes.

23 **THE COMMISSIONER:** Yeah, okay. So here's a
24 statement of Mr. Renshaw and here he's saying look it, I've
25 lived on the St. Lawrence River in Ken Seguin's home for

1 approximately two years. And during that time, right, he
2 saw a bunch of people, Claude Shaver, Malcolm MacDonald and
3 he goes through for 15 pages of all of the people that he
4 has seen at Ken Seguin's.

5 **MR. McCONNERY:** Yes.

6 **THE COMMISSIONER:** All right. So the
7 question is, did you ever see this during your review of
8 the files?

9 **MR. McCONNERY:** So did -- eight years ago
10 did I see this particular document? If -- you have the
11 brief. Was it in the brief?

12 **THE COMMISSIONER:** Well, that -- there you
13 go. Where is the Crown brief? What Crown brief would you
14 have seen?

15 **MR. McCONNERY:** The -- I believe it was a
16 nine-volume brief relating to the conspiracy allegation.

17 **THE COMMISSIONER:** Is there an index?

18 **MS. SIMMS:** There is.

19 **THE COMMISSIONER:** Thank you.

20 **MS. SIMMS:** Mr. Commissioner, the index is
21 Exhibit 2631. And this is the Index of the conspiracy
22 brief.

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

24 **MS. SIMMS:** I would note, however, that Mr.
25 McConnery has told us that he reviewed a number of

1 additional materials.

2 **THE COMMISSIONER:** That's fine.

3 **MS. SIMMS:** And he also reviewed a number of
4 boxes or other materials provided by Dunlop. So it's -- it
5 would not encompass all the material that he had reviewed.

6 **THE COMMISSIONER:** Let's just see here
7 whether we have ---

8 **MS. SIMMS:** In addition to this Index, I
9 believe would be the first brief he was provided that was
10 later updated.

11 **THE COMMISSIONER:** Okay.

12 So can anyone help us? I don't see in here
13 that the statement that I've referred to of Mr. Renshaw or
14 any of Mr. Renshaw's statements are in this index.

15 So where do you want to go from here, Mr.
16 Horn?

17 **MR. HORN:** This document was used in cross-
18 examination -- not -- in-chief when Mr. Renshaw was here
19 and he was -- and he commented on it.

20 **THE COMMISSIONER:** And what did he say?

21 **MR. HORN:** Well, he said that he'd seen Mr.
22 LaRocque getting boat rides over to Malcolm's cottage from
23 Ken Seguin's.

24 **THE COMMISSIONER:** Yeah, but ---

25 **MR. HORN:** Okay, that's what he said on the

1 stand.

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

3 **MR. HORN:** And it was commenting on the --
4 and the question -- he was questioned on that particular
5 document.

6 **THE COMMISSIONER:** Yes, I know that, except
7 that we're trying to look -- you're trying to assess the
8 reasonableness of the institutional response. Where we're
9 at is, this gentleman has said that Mr. Leroux's evidence
10 was suspect to say the least.

11 **MR. HORN:** Okay.

12 **THE COMMISSIONER:** And we're saying, well
13 -- you're saying, well, wait a minute here, it wasn't just
14 him. As a starter we saw -- we have these affidavits.

15 Did you see these affidavits? And so now
16 we've seen our affidavits or statements. We look at the
17 brief, the Index to the conspiracy to obstruct justice,
18 Index Volume 1, and my cursory review shows that it's not
19 in there.

20 **MS. SIMMS:** Perhaps -- I'm not sure if this
21 is of further assistance, but there is a statement from
22 Gerald Renshaw listed in the Fantino brief, the brief that
23 Dunlop provided.

24 **THE COMMISSIONER:** Okay.

25 **MS. SIMMS:** Perhaps Mr. McConnery could

1 answer if that was one of the documents he reviewed.

2 **THE COMMISSIONER:** Okay. And where would we
3 find that?

4 **MS. SIMMS:** That is Exhibit 729.

5 **THE COMMISSIONER:** Seven-two-nine (729).
6 Madam Clerk, I don't have that.

7 **MS. SIMMS:** And it lists -- while you're
8 looking for it -- the list doesn't include dates. It just
9 says "Statement of Gerry Renshaw". So we would have to
10 confirm if it was the same statement.

11 **THE COMMISSIONER:** Seven-two-nine (729).
12 Statement of Donald Bell, yeah. Statement, I'm sorry, of -
13 - okay, so sir, would you have seen all of the Fantino
14 brief?

15 **MR. McCONNERY:** Yes.

16 **THE COMMISSIONER:** All right.

17 So now we need to determine what is the
18 statement of Gerry Renshaw that was in that document. Can
19 anyone help me?

20 **MR. SIMMS:** Mr. Commissioner, I would be
21 able to determine that but it would just take me some time
22 so ---

23 **THE COMMISSIONER:** Well, it's Mr. Horn's
24 cross-examination.

25 **MR. HORN:** Yes. Okay, all right. Okay,

1 I'll just wait. Yes. If there's something else.

2 Another subject. I'd like to take a look at
3 the letter to yourself from Mr. Hall, Constable Hall or
4 Inspector Hall.

5 It's number -- Exhibit Number 2838.

6 **THE COMMISSIONER:** I have it.

7 **MR. HORN:** On the second page, the second
8 paragraph, the last two lines.

9 "The Ministry of Attorney General
10 received tons of material. She didn't
11 know what happened to it."

12 **THE COMMISSIONER:** All right. So now --
13 sir, just to help situate you, Mr. Dunlop apparently served
14 and delivered some boxes, presumably something like the
15 Fantino brief, to the Attorney General's office, received a
16 receipt for it.

17 This is talking about what happened, right,
18 and then it's about what the Ministry of the Attorney
19 General did with the material. Is that right? Is that
20 what you're talking about?

21 **MR. HORN:** Yeah, that's right. And also not
22 only did the Attorney General, from what I understand,
23 there was a number of boxes or there was one that -- some
24 material went to Fantino and did some material go to the --
25 another ministry -- I think it was the Solicitor General.

1 Was there like large boxes, large amounts of
2 material, given to three different places? Fantino,
3 Solicitor General and the Attorney General.

4 **THE COMMISSIONER:** How could he ---

5 **MR. HORN:** Are you aware of that?

6 **THE COMMISSIONER:** Are you aware of that?

7 **MR. McCONNERY:** What I recall is that there
8 was materials delivered to the Ministry of the Attorney
9 General and subsequently delivered to the Ministry of the
10 Attorney General, and subsequently delivered to the London
11 Police Service, the Chief of Police, being Mr. Fantino. I
12 don't recall at this time delivering to the other Ministry.

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

14 **MR. HORN:** Yes.

15 **MR. McCONNELL:** I think Mr. Horn is slightly
16 misstating the evidence that we've heard so far.

17 There was material, obviously, that we've
18 heard from a number of different sources, a Fantino brief,
19 that was delivered to Chief Fantino in December of 1996,
20 and then an attempt of three deliveries in April of 1997;
21 two of them were successful, on the Ministry of the
22 Attorney General, and on OCCOPS ---

23 **THE COMMISSIONER:** Yes.

24 **MR. McCONNELL:** --- and the third one,
25 obviously, to the Solicitor General, was not -- was not

1 accepted.

2 **THE COMMISSIONER:** He accepted the letter,
3 but not the rest.

4 **MR. HORN:** Okay.

5 **THE COMMISSIONER:** So, I don't ---

6 **MR. HORN:** The question is this: Mr. Dunlop
7 is giving the government, the Attorney General, all the
8 documents that he thought that he had to give to them in
9 order to be -- to make sure that he didn't get himself into
10 trouble and be accused of delay.

11 Did you think that he did his best? When
12 you saw that, you said, "...a ton of material being
13 delivered to the Attorney General?"

14 Do you think that he was doing his best to
15 make sure that the Attorney General got everything that he
16 had?

17 **THE COMMISSIONER:** No.

18 **MR. HORN:** Is that what you thought at the
19 time?

20 **THE COMMISSIONER:** No. Hold on. Hold on.

21 First of all, you're saying that Dunlop
22 delivered tons of material. No, no, no, no. What she
23 says is, "Listen, the Ministry of the Attorney General
24 received tons of material, and I don't know what happened
25 to it."

1 So it's not -- you can't say that it's --
2 it's Dunlop who's delivering tons of material.

3 **MR. HORN:** Okay, but when you -- when you
4 heard -- or, in this letter -- that Mr. Dunlop had done
5 this, did you think that Mr. Dunlop was indicating that he
6 was doing his best to give everything that he had to the
7 government, because he thought that the government would
8 eventually give it to the right authorities that were going
9 to need it?

10 **MR. McCONNERY:** I -- I had no impression of
11 Mr. Dunlop was giving everything.

12 I knew he had delivered material to the
13 Ministry of the Attorney General that should have gone to
14 the Ontario Provincial Police.

15 **MR. HORN:** You understood why he didn't do
16 it, though?

17 **MR. McCONNERY:** I understood what, sir?

18 **MR. HORN:** You knew why he didn't do it?

19 **MR. McCONNERY:** Well, he did do it.

20 **MR. HORN:** No, he didn't give it directly to
21 the police; he gave it to the Attorney General.

22 **MR. McCONNERY:** Oh, I -- I see what you're
23 saying. Well, I -- I don't know that I can do much more
24 than speculate.

25 **THE COMMISSIONER:** And we don't want you to

1 speculate.

2 **MR. HORN:** As I understand it, the reason
3 why he didn't do it was because he didn't trust the police,
4 that it would get into the right hands, so he said, "I'm
5 going to give it to the Attorney General. Let them handle
6 it?"

7 **THE COMMISSIONER:** That may well be, sir. I
8 don't know that he can answer that question.

9 **MR. HORN:** No, I know, but did you -- did
10 you take it that way, when you got that letter from
11 Mr. Hall, that Mr. Dunlap was -- realized -- did you think
12 that he realized that he'd better get that stuff somewhere
13 where it's going to be handled properly?

14 **MR. KLOEZE:** Mr. Commissioner, maybe a more
15 relevant question would be to ask this witness whether or
16 not he ever spoke to Mr. Dunlop about -- about these
17 matters.

18 **THE COMMISSIONER:** Yes. You see, Mr. Horn,
19 what -- in effect what you're doing is, you're giving us a
20 proposition or a premise that Mr. Dunlop did this for those
21 reasons. If Mr. Dunlop had been here and testified to
22 that, well, then, we could -- but he hasn't.

23 So I don't know that you can -- unless
24 you've got it somewhere in writing, of what Mr. Dunlop said
25 or felt, I don't know that we can put it that way.

1 But did you ever speak to Mr. Dunlop? Did
2 he ever express any reason why he did that?

3 **MR. McCONNERY:** The only time I talked to
4 him was April 29th of 2002.

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

6 **MR. McCONNERY:** Did I -- I could review my
7 notes about whether or not I asked him a question about why
8 he did that, or -- or whether or not he said anything under
9 oath at that hearing. But, that was the only time I talked
10 to Mr. Dunlop, was during -- and that was during the course
11 of the proceedings.

12 **MR. HORN:** Now, there's another question I
13 have: At the 11(b) hearing -- the stay motion, okay -- did
14 you expect the Crown attorney, Mr. Pelletier, to be
15 testifying?

16 **MR. McCONNERY:** I -- I know that in my notes
17 I have a list of witnesses that I proposed to call. I'd be
18 assisted by that, sir.

19 **MR. HORN:** Did you -- did you ---

20 **MR. McCONNERY:** I don't recall that I
21 intended to call him.

22 **MR. HORN:** Did you have any idea -- did you
23 get any idea that there had been some possible discussions,
24 between the defence counsel and Mr. Pelletier, regarding
25 the waiver of 11(b)? Were you aware of that?

1 **MR. KLOEZE:** Just as a suggestion, can we
2 situate that discussion in time?

3 **MR. HORN:** We're talking about the brief
4 encounter in the hallway that allegedly had taken place.
5 Were you aware of anything like that
6 happening?

7 **THE COMMISSIONER:** Well, he testified, sir,
8 that at some point one of the officers -- I think maybe
9 Dupuis? Was it Dupuis? Came forward and said, "Listen, I
10 have this memory of -- in the hallway, and there's
11 discussion," and we heard that Mr. McConnery phoned Mr.
12 Pelletier and had a discussion about that. So we've heard
13 that in-chief. I don't know if ---

14 **MR. McCONNERY:** I think we actually went
15 into Mr. Pelletier's office.

16 **THE COMMISSIONER:** Oh, okay.

17 **MR. HORN:** Did you -- did you think of
18 having him testify at the motion?

19 **MR. McCONNERY:** I would say that we
20 certainly considered it, but, you know, what we were faced
21 with, sir, was Officer Dupuis telling is he had this vague
22 recollection.

23 I believe I spoke to Mr. Pelletier, and Mr.
24 Pelletier could add little more than, "Well, yeah, like, I
25 think I -- maybe I would have," and then reviewing the

1 transcripts, and the transcripts very clearly saying, on
2 behalf of the defence, "We're not waiving."

3 And at one point, I think Mr. Pelletier
4 acknowledges that he's been told that there's no waiver.
5 So why -- how is that going to advance the hearing, by
6 subjecting Mr. Pelletier to cross-examination of a vague
7 recollection that -- that seems to fly in the face of what
8 happened?

9 **MR. HORN:** Well, it would -- it would be
10 good to know what -- not just one side, but exactly what
11 happened in the hallway. There was somebody that was
12 there, that's -- Pelletier was there. You would want him
13 on the stand to say exactly what happened.

14 **MR. McCONNERY:** If you had a concise memory
15 of it, yes, but he -- my recollection is, he didn't, and I
16 don't know how a court could be assisted by having
17 somebody, even somebody who I think has a certain position
18 as an officer of the court -- by saying, "I have some
19 memory of something, but I can't be clear, I can't be
20 concise on it, and it doesn't accord with what I said in
21 court," so I -- I don't -- I just don't see, sir, how that
22 would have assisted the hearing, that nature of evidence.

23 **MR. HORN:** Okay. Now, there's another
24 question that I have, and that's regarding what you
25 mentioned the other day about the fact that there was a

1 number of -- there was one judge, and then another judge,
2 being appointed to sit on the -- on your -- on the trials.

3 Did you think of getting together with the
4 trial co-ordinators in Smith Falls, Ottawa, and yourself
5 and Mr. Neville, to discuss possibly getting your -- your
6 schedule and his schedule in such a way as it's possible
7 that we -- that you could arrange things so that there
8 wouldn't have been this -- this whole question of delay
9 going on for forever? The two of you, sitting down and
10 trying to hash out an agreement on when the hearing's going
11 to be, and you're going to accommodate his schedule and
12 your schedule, so that we wouldn't have the problem that
13 arose?

14 **MR. McCONNERY:** I mean, you threw in there
15 the trial co-ordinator from Lanark. I don't know what
16 that's a reference to, but it's ---

17 **MR. HORN:** It was the homicide trial that
18 was going on, in Lanark County.

19 But it was done by -- I mean it caused --
20 there was a delay in our matter because of that. But it
21 only went to first, second week of May or something like
22 that, I seem to recall.

23 So that was off the radar by the time I
24 arrived. I got down there to spend time and commit myself
25 to this matter by -- around the 1st of June. The Lanark

1 murder trial was, I believe, over by then.

2 MR. HORN: Okay. But, I mean, did you think
3 in terms of let's sit down with the defence counsel and try
4 to make sure that we're not going to be -- try to get a
5 date which is going to be -- which is not going to not
6 cause all of the problems that occurred?

7 Maybe some other trials were not as serious
8 and may not have been as urgent as this one, and you could
9 have slotted it in there and moved things around.

10 MR. McCONNERY: M'hm.

11 MR. HORN: Is -- was that something that you
12 thought of doing?

13 MR. McCONNERY: What I thought of doing and
14 what we did do is we wrote Mr. Neville and said can we, you
15 know, possibly see about the schedules being worked out.

16 My schedule was not going to be a problem.
17 You know, my schedule was clear. I was being given other
18 tasks, but if Father MacDonald's trial, for instance, had
19 been set for August 15th or August 1st, those other briefs
20 that I was reviewing would have been put in the corner
21 again. I would have done the Father MacDonald trial. So
22 it wasn't my schedule. The application for adjournment in
23 April of 2001 we -- the transcript is here. We've reviewed
24 it.

25 Mr. Neville had, through Mr. Selkirk I

1 believe, had indicated his availability. Mr. Phillips had
2 taken a position regarding 11(b); had indicated that we
3 would be ready for trial in May and I've discussed that at
4 some length.

5 And the court -- I believe the senior
6 regional -- no, I'm sorry, Justice Desmarais may have been
7 an administrative judge when I was in Ottawa. I believe it
8 was Justice Desmarais, he ordered the adjournment and
9 assigned a trial date. which I understood was the first
10 available trial date. And we were concerned about that.
11 We wrote Mr. Neville. I don't believe we got a reply to
12 our correspondence. And I was told, you know, do this
13 other task we're assigning you.

14 So did I ever call him and say in September
15 let's get together maybe we can do the trial in November,
16 no, I didn't, sir.

17 **MR. HORN:** Okay. Thank you.

18 And one of the things that was not made
19 clear in discussing the transfer of the files from Ms.
20 Howard to yourself ---

21 **THE COMMISSIONER:** Mr. Horn, I think Mr.
22 Neville wishes to say something.

23 **MR. HORN:** Yes.

24 **MR. NEVILLE:** Commissioner, the exhibit Mr.
25 McConnery is referring to is our Exhibit 2265. It's a

1 transcript of April 25th, 2001.

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

3 **MR. NEVILLE:** And apropos of what Mr.
4 McConnery just said, and in the interest of saving time,
5 page 6 of the transcript, the issue of dates and the first
6 available date is discussed and the fact that I might have
7 earlier dates than Mr. Justice Desmarais as Mr. McConnery
8 says. Yes, it was. He basically indicates that March 18th,
9 '02 was the first available date. And if you look at page
10 6, which is Bates page 516, it's discussed there.

11
12 **THE COMMISSIONER:** Okay. So -- just so --
13 it says "the court", and that's Mr. Justice Desmarais, when
14 Mr. Phillips is saying, well, can we get a sooner trial
15 date and we'll talk to Mr. Neville. And the court says:

16 "Well, I don't know that makes any
17 difference. If the court is not going
18 to have any judge available until March
19 18th for a five-week trial so that if
20 you indicate to me or Mr. Neville
21 indicates that he's going to be
22 available January 15th or..."

23 And then Mr. Phillips:

24 "Just in the event that a judge or a
25 court does, in fact, become available,

1 it might be helpful to know Mr.
2 Neville's first available dates."
3 There you go.
4 And the court says:
5 "It can do no harm, so I assume, Mr.
6 Selkirk, you might communicate that to
7 Mr. Neville and find out whether or not
8 there are any other dates available."
9 "There are earlier dates."

10 Says Mr. Selkirk.

11 The court says:
12 "Well, and if indeed there are, then
13 that can be transmitted to our trial
14 coordinator and if indeed there are
15 openings, then fine, very well. Thank
16 you."

17 That's what it says.

18 **MR. HORN:** Okay. Thank you.

19 One of the things that was not made clear
20 the other day when you were being questioned about -- and
21 that's the Crown's responsibility is -- has the
22 responsibility of disclosure, isn't that right, not the
23 police?

24 **MR. McCONNERY:** Yes.

25 **MR. HORN:** That's clear.

1 **MR. McCONNERY:** That's correct, yes.

2 **MR. HORN:** So if disclosure goes directly
3 from the police to the defence, that's not appropriate or
4 what is it? What is that, some sort of an understanding
5 that exists or is that legal?

6 **THE COMMISSIONER:** Well, I don't know if
7 it's illegal.

8 **MR. McCONNERY:** I don't believe there's
9 anything illegal about it, but I certainly would say that
10 there's a practice in a lot of jurisdictions that the
11 police do, in fact, handle disclosure.

12 **MR. HORN:** That's done some places?

13 **MR. McCONNERY:** Oh, yes.

14 **THE COMMISSIONER:** Well, at the direction of
15 the Crown.

16 **MR. McCONNERY:** With the agreement of the
17 Crown.

18 **THE COMMISSIONER:** With the agreement of the
19 Crown?

20 **MR. McCONNERY:** Yes.

21 **THE COMMISSIONER:** Okay, no, but without the
22 agreement of the Crown? Is that what you're getting at,
23 Mr. ---

24 **MR. HORN:** Yes, I just want to know who
25 controls the disclosure. Is it -- does it -- does the

1 Crown maintain disclosure as to what goes to the defence
2 making sure that not -- you know, something that's
3 irrelevant might not be needed or ---

4 **MR. McCONNERY:** Whoever actually hands it
5 over, if it's Crown or police, I fully accept that it is
6 -- the Crown's responsible for it.

7 **MR. HORN:** Okay.

8 **MR. McCONNERY:** Okay? Now, there may be
9 places in my own jurisdiction, there may be things that get
10 turned over directly by the police and I would expect them
11 to have a record of it and to provide the Crown with a
12 record of what had been turned over.

13 But I fully accept that it's the Crown
14 Attorney's responsibility.

15 **MR. HORN:** Okay. So the things that
16 happened when there was that confusion because the
17 disclosure went directly from the police to the defence ---

18 **MR. McCONNERY:** I have no idea what ---

19 **MR. HORN:** When you ---

20 **MR. McCONNERY:** I have no idea what you're
21 talking about.

22 **MR. HORN:** I'm talking about when Ms.
23 Hallett was -- and Mr. Hall, Detective Hall, had the
24 problem where he went directly to defence counsel.

25 **THE COMMISSIONER:** In the Leduc trial.

1 **MR. McCONNERY:** In the Leduc trial.

2 **MR. HORN:** In the Leduc trial.

3 You were aware of that weren't you?

4 **MR. McCONNERY:** I -- certainly, I became
5 aware of the allegations that resulted in the stay and then
6 the background information.

7 **MR. HORN:** And also the problems that Ms.
8 Hallett got herself into because of it?

9 **MR. McCONNERY:** What flowed from that, I was
10 aware of the stay, the order for costs, the criminal
11 investigation.

12 **THE COMMISSIONER:** The appeal.

13 **MR. McCONNERY:** The ---

14 **THE COMMISSIONER:** The appeal?

15 **MR. McCONNERY:** The appeal actually I went
16 and watched.

17 **MR. HORN:** Okay. The question I have then
18 is this, you -- she's removed. She's not there any more.
19 You're now put into that situation.

20 **THE COMMISSIONER:** Whoa ---

21 **MR. HORN:** Did that make you very cautious?
22 You basically replaced her, didn't you, in what she -- with
23 the position she was in?

24 **MR. McCONNERY:** Yeah.

25 **MR. HORN:** And you're dealing with the same

1 police officers that she was dealing with?

2 MR. McCONNERY: Yes.

3 MR. HORN: Did that make you not only
4 cautious but very fearful?

5 MR. McCONNERY: Very fearful?

6 MR. HORN: Yes.

7 MR. McCONNERY: No. No, you know, I believe
8 what I have indicated already is that I had a picture of
9 Detective Inspector Hall and, as a result, I attempted to
10 be careful with what I said to him and to try to keep a
11 record, if you will, of my dealings with everybody with
12 this matter.

13 And as I worked with Officer Hall and
14 certainly the other investigators, I respected them. You
15 know, generally speaking when I meet an officer, because he
16 is who he is, I have some respect for him in his position
17 but then there's earned respect. And as I worked with
18 these officers over the 10 months that I did, they
19 certainly earned my respect.

20 Pat Hall was very focussed, he was a very
21 driven investigator, and I believed him to be trying to do
22 what he was doing properly. I thought he was properly
23 motivated; properly directing his mind to things. But he
24 did things differently and he would, for instance -- you
25 know, I'm aware for instance that he made a note that I

1 reacted to a press conference for instance.

2 I have no notes about my reaction to the
3 press conference, but for some reason he put it in his
4 notebook. That's the kind of thing Pat Hall does. There's
5 nothing wrong with that. It was -- I didn't find it to be
6 deceitful, but now I might be asked about why did you react
7 this way to this press conference? Why would that be in an
8 officer's notes? That's the way Pat Hall is.

9 I learned to respect him. When I asked him
10 about things, he appeared to me to try to respond and give
11 me the material I was asking, and unless you can point me
12 to something else from my notes, I believe he responded in
13 a fairly timely fashion.

14 **MR. HORN:** Was there any suggestion that the
15 reason why things worked a lot better was because you were
16 a man and Hallett was a woman?

17 **MR. McCONNERY:** Well, as I told the
18 Commissioner in answer to a question the other day, one of
19 the things that Officer Hall said to me was -- do I need to
20 repeat it? He called her a princess.

21 **MR. HORN:** So if he was mad at you, he would
22 have called you a prince?

23 (LAUGHTER/RIRES)

24 **MR. McCONNERY:** No, I don't think so, sir.
25 He probably would have called me an A-whatever.

1 **MR. HORN:** Okay.

2 **MR. McCONNERY:** I don't think he was always
3 pleased with me, but I don't think it ever interfered with
4 him doing his job as he saw it to be done and to comply as
5 best he could with anything that I was asking him for
6 assistance on.

7 And I can tell you, sir, I thought the other
8 officers were superb.

9 **MR. HORN:** Okay.

10 **MR. McCONNERY:** I thought they were very
11 good.

12 **MR. HORN:** I have just one other area, and
13 that's in regards to your opinion about the Albert
14 Lalonde's allegations against Father Charlie.

15 **MR. McCONNERY:** Albert Lalonde? Okay.

16 **MR. HORN:** Okay. Now, did you read all
17 three of the interviews with him? I'm talking about the
18 one that was done by ---

19 **MR. NEVILLE:** Commissioner, this topic came
20 up with Detective Sergeant Carroll and others, and I'm
21 perhaps incorrect, but I think we've made every effort not
22 to use that name specifically, the complainant, but I'm not
23 sure it was officially monikered, just simply not used. I
24 stand to be corrected.

25 **THE COMMISSIONER:** Mr. Lee?

1 **MR. LEE:** I'm on for Mr. Lalonde, and I
2 believe it was on the record that he did not have concerns
3 about confidentiality, and I think Mr. Neville is mistaken.
4 I think we did use it in the hearing room with Sergeant
5 Carroll and others.

6 **THE COMMISSIONER:** Okay.

7 **MR. LEE:** There's no concern about
8 confidentiality.

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

10 **MR. HORN:** Okay. So there were three
11 interviews with him. Did you read all three of them? One
12 of them was done -- the first one was in April '95 and May
13 ---

14 **MR. KLOEZE:** Mr. Commissioner, these have
15 exhibit numbers.

16 **MR. HORN:** Yeah. Exhibit Number 1696 and
17 1697.

18 **THE COMMISSIONER:** That's two.

19 **MR. HORN:** And then there's a final one that
20 was 1699.

21 **THE COMMISSIONER:** Okay. Well, they're all
22 in the same book, so that's good.

23 Okay. So do you recall this, Mr. ---

24 **MR. McCONNERY:** Mr. Lalonde's brother --
25 what I recall, sir, is Mr. Lalonde's brother presented

1 himself at the 11(b) motion, came to speak to myself and
2 Mr. Phillips. We gave his brother some direction or advice
3 about reporting the matter that he was concerned about, and
4 that was regarding Albert, to -- it may have been the
5 Cornwall Police.

6 After that interview, I believe I was made
7 aware that the allegation of Mr. Lalonde had been received,
8 investigated. I don't know if a brief had been -- I don't
9 remember now if I knew a brief had been done.

10 After the completion of the motion, I
11 returned to Barrie. I was then contacted by -- I certainly
12 recall Sergeant or Detective Carroll calling, wanting to
13 submit something to me. I wasn't prepared to accept it at
14 first.

15 My position was, "I'm done with Cornwall".

16 **MR. HORN:** Okay.

17 **MR. McCONNERY:** I then received direction --
18 maybe not direction, maybe a request from Jim -- Mr.
19 Stewart, that since this was a complaint about Father
20 MacDonald, would I review it. So I received a brief from
21 the Cornwall Police. I don't know if that was about the
22 2002 investigation alone, but certainly I read that brief
23 cover to cover.

24 I, at some point, became aware that there
25 had been at least one earlier investigation or one earlier

1 interview maybe is a better way to put it. I think there
2 was some delay. It may not have been much of a delay, but
3 I got what had happened earlier.

4 I remember as I look at this document -- I
5 now remember the name of Hurtubise.

6 So do I recall this document? No, I don't.
7 I recall the involvement of an Officer Hurtubise with a Mr.
8 Lalonde and every document I received, I read. And I
9 became aware that there had been a decision not to lay
10 charges and I attempted to review all of the material that
11 I could.

12 I believe that I may have requested some
13 other material, possibly medical records, or maybe they
14 were in the Cornwall brief and the concern was had they
15 been available to the other investigators in the mid-'90s.

16 And I also am aware that I had the briefs
17 for a while before I responded to Officer Carroll, and I
18 don't think he was particularly pleased with me.

19 **MR. HORN:** Do you recall the way in which
20 this matter came up? It was through Mr. Lalonde watching
21 television and then his mind was -- he remembered
22 incidences from his childhood? Do you remember that?
23 Because ---

24 **MR. McCONNERY:** I do now that you've said
25 it. I do recall something of that now that you said it.

1 **MR. HORN:** Okay. And it's mentioned in his
2 first statement on April 25th, '95.

3 Was there any discussions regarding the
4 recovered memory syndrome?

5 **MR. McCONNERY:** Any discussion? I did not
6 talk about recovered memory syndrome with anyone.

7 **MR. HORN:** Where he saw something and it
8 jarred his memory or jogged his memory and he remembered
9 incidences from the past. Do you remember looking into
10 that aspect of this case?

11 **MR. McCONNERY:** Did I? No. I was given a
12 brief. I knew there was another outstanding brief or
13 interview or investigative reports. I got that. I tried
14 to assess it all and give an opinion based upon what I had.
15 I do not recall asking anyone to, you know, get a
16 consultative report on the issue of recovered memory or
17 anything of that nature. I don't recall any such
18 discussion.

19 **MR. HORN:** Okay. Do you remember him making
20 comments regarding the fact that some of the things that
21 occurred to him were -- he was basically enticed into
22 participating in this by saying that he would -- he was
23 serving God by doing it, by participating in these
24 activities with the priest?

25 **MR. McCONNERY:** That was Albert Lalonde's

1 position?

2 MR. HORN: That's what he said.

3 MR. McCONNERY: Do I remember that?

4 MR. HORN: Do you remember that, that when
5 he was giving evidence through the interviewers, he said
6 that. He said that he thought that he was doing it for
7 God.

8 THE COMMISSIONER: Where do you see that,
9 sir?

10 MR. HORN: It would be on 1699.

11 THE COMMISSIONER: Sixteen ninety-nine
12 (1699).

13 MR. HORN: It's mentioned twice, on the
14 first page and on the ---

15 THE COMMISSIONER: Where in the first page?

16 MR. HORN: And on page 5.

17 THE COMMISSIONER: Okay. Where on the first
18 page?

19 MR. HORN: It's mentioned about three-
20 quarters of the way down.

21 THE COMMISSIONER: M'hm, okay, so where?

22 MR. HORN: Are we looking at the same thing?

23 THE COMMISSIONER: It's 1699.

24 MR. HORN: I must have the wrong number
25 here. This is the one that was done by Constable Carroll.

1 **THE COMMISSIONER:** Well, there was one --
2 first of all, 1699 is -- the witness is Luc Clement.

3 **MR. HORN:** Oh, no, this is the wrong one.
4 I've got the wrong number. I think it was 735646 is the
5 number.

6 **THE COMMISSIONER:** I'm sorry?

7 **MR. HORN:** Seven-three-five-six-four-six
8 (735646) is the number I have.

9 **THE COMMISSIONER:** Yeah, that's Exhibit
10 1699.

11 **MR. HORN:** This is the interview that was
12 done by the Cornwall Police Services in 2002. That's the
13 one.

14 **MR. McCONNERY:** Yeah.

15 **MR. HORN:** Oh, no, that's the wrong one.
16 What number is it -- 1691? Exhibit Number 1691.

17 **THE COMMISSIONER:** Mr. Horn -- okay, now
18 where?

19 **MR. HORN:** About three-quarters of the way
20 down.

21 **THE COMMISSIONER:** Show it to me. Okay,
22 first of all I think I see it. It says:

23 "Lalonde indicated that he froze and
24 that Father Charlie placed his hand on
25 his head and said repeatedly, 'It will

1 please God'."

2 **MR. HORN:** That's right.

3 **THE COMMISSIONER:** He's saying Father
4 Charlie told him that.

5 **MR. HORN:** That's right. Father Charlie is
6 telling him if he does what he is being asked to do by the
7 priest that it would please God. And there's even a
8 further reference to that on page 5.

9 **THE COMMISSIONER:** Okay, okay.

10 **MR. HORN:** And he mentions the fact that the
11 priest -- that "I was serving God and he was like God to
12 me." That's talking about the priest.

13 **THE COMMISSIONER:** Where? Please tell me.

14 **MR. HORN:** It's about halfway down page 5.

15 **THE COMMISSIONER:** Okay, where, sir?

16 **MR. HORN:** Where it says "L" about four
17 lines down from the middle there.

18 **MR. McCONNERY:** The large paragraph now.

19 **THE COMMISSIONER:** "I want you to know"?

20 **MR. McCONNERY:** "Like I was saying from day
21 one" it starts ---

22 **THE COMMISSIONER:** Page 5. Okay, yeah.

23 Yeah, okay. So now ask your question. Go
24 ahead, Mr. Horn.

25 **MR. HORN:** Okay.

1 **THE COMMISSIONER:** What's the question?

2 **MR. HORN:** The question I have is this is
3 the kind of pressure that was placed upon this young person
4 to perform sexual favours for the priest.

5 **THE COMMISSIONER:** Just ---

6 **MR. HORN:** And these were the things that
7 were being said. Did you feel that ---

8 **MR. NEVILLE:** Excuse me, please. I object,
9 Mr. Commissioner, for the reason that is obvious.

10 **THE COMMISSIONER:** Mr. Horn, first of all
11 these are allegations. Second of all, no charges were
12 proceeded with. So you've got to talk about allegations
13 and you've got to ask a question that's relevant to the
14 Inquiry.

15 **MR. HORN:** The question is around the idea
16 that these are allegations, very serious allegations and
17 there is even other serious allegations that are mentioned
18 earlier about something that happened at a park which were
19 quite serious.

20 You're saying that these allegations did not
21 warrant criminal charges? You had said, no, we're not
22 going to charge you because you -- is it because you just
23 wanted to get out of town?

24 **MR. McCONNERY:** No.

25 **MR. HORN:** Is that the reason, you didn't

1 want to become -- back prosecute something over again?

2 **MR. McCONNERY:** Mr. Horn, I've been here
3 three days now. That's the first time I have felt somebody
4 was trying to take a cheap shot.

5 **THE COMMISSIONER:** Okay ---

6 **MR. HORN:** It's not a cheap shot.

7 **THE COMMISSIONER:** Just a second. Just
8 whoa, just a second. You just hold on.

9 Mr. Neville.

10 **MR. NEVILLE:** Mr. Commissioner, Mr.
11 McConnery was presented with a great deal of material. On
12 the screen briefly but not used by my friend, Mr. Horn, was
13 the report of the doctor and, Your Honour, you sir, Mr.
14 Commissioner, should say, know what that doctor's evidence
15 in his report was.

16 **THE COMMISSIONER:** The last line says it
17 all.

18 **MR. NEVILLE:** It says it all, sir, and Mr.
19 McConnery got that.

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

21 But sir, I think you're entitled to cross-
22 examine but you have to stay within the boundaries of
23 propriety, relevance and advocacy. So far ---

24 **MR. HORN:** I apologize.

25 **THE COMMISSIONER:** Well, Mr. Horn, with the

1 greatest of respect, you told me yesterday you were going
2 to be half an hour. I gave you half an hour yesterday.
3 We're now going on over an hour and most of the time is
4 taken up because you don't know where the exhibits are and
5 you're having difficulty formulating the questions, sir.
6 We're pressed for time and all I'm saying is that we're
7 pressed to use our time wisely. So please get your
8 questions out.

9 I'm not stopping you from asking the
10 questions. I'm even helping you but, please, you're not
11 serving your client's cause by putting improper questions
12 to the witness.

13 **MR. HORN:** If these allegations are true
14 these are very serious allegations and, yet, no charges
15 were laid. That's the concern our group had.

16 **THE COMMISSIONER:** That's a submission.
17 Yes, sir.

18 **MR. KLOEZE:** If Mr. Horn is going to keep on
19 asking questions about this matter I think it might be
20 helpful to show the witness his opinion letter for it, and
21 it's Exhibit 1704.

22 **THE COMMISSIONER:** Yes, all right. Let's
23 pull out -- 1704 is right there in that same book, sir.

24 **MR. McCONNERY:** Seventeen-oh-four (1704)?

25 **THE COMMISSIONER:** Yeah.

1 And so, sir, I'm going to ask you, sir, to
2 refrain from talking about cheap shots and things like
3 that. You have a lawyer here. I think I'm pretty good at
4 keeping things on the road and so let's try to keep it on
5 that level.

6 All right. Now, Mr. Horn, there is the
7 opinion letter. Let's take a moment and review it, okay?

8 **(SHORT PAUSE/COURTE PAUSE)**

9 **THE COMMISSIONER:** Okay.

10 **MR. McCONNERY:** Sir, your question to me
11 was: If true, is it your position because you wanted to
12 get out of town, that these allegations did not warrant
13 charges?

14 These allegations were exceptionally serious
15 allegations. That doesn't mean you lay the charge. You
16 lay the charge, sir, if there are reasonable and probable
17 grounds to believe the allegation happened.

18 So I'm quite offended, despite what the
19 Commissioner says, about the position you've put to me
20 because I believe I reviewed in a very slow way -- I took
21 my time. I wasn't trying to get out of town, sir. I was
22 out of town. I was in Barrie.

23 I reviewed every piece of material they gave
24 me. I compared it to the earlier investigations. I read
25 the new statements. I read the old statements. I reviewed

1 the medical information. I, sir, was content that when the
2 officer said to me, "I don't have the belief and the
3 complaint that would allow me to lay the charge" I shared
4 that very position.

5 And I think that's what I tried to capture
6 in my letter. I wasn't rushed. I was not going to allow
7 myself to be rushed and I was out of town. I was at home.

8 I asked for the briefs. I got the briefs
9 and, in fact, I was aware that possibly -- I don't remember
10 the name of the chief of the Cornwall Police Service -- may
11 have been trying to get Officer Carroll to get me to
12 respond. And you know I was back. I had other things on
13 my desk at the time as well but I took my time. I reviewed
14 everything I had. No, I didn't say a Crown attorney said
15 no five years ago so I'm just going to write a letter
16 saying no as well. I think I conscientiously tried to
17 apply my mind to every piece of the material that I was
18 provided with, sir.

19 **MR. HORN:** Do you accept my apologies?

20 **MR. McCONNERY:** Certainly.

21 **MR. HORN:** Okay, thank you.

22 That's all the questions I have.

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

24 Mr. Lee, how long are you going to be?

25 **MR. LEE:** It just got longer.

1 **THE COMMISSIONER:** Okay, well, do you want
2 to start for 15 minutes?

3 **MR. LEE:** That's fine.

4 **THE COMMISSIONER:** Okay.

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

6 **MR. LEE:** Mr. McConnery, my name is Dallas
7 Lee. I'm counsel for the Victims' Group.

8 You looked during your examination in-chief
9 at a number of factual analyses that you did in relation to
10 your assessment of various files that you were provided?

11 **MR. McCONNERY:** Yes.

12 **MR. LEE:** And as I understand it, the
13 purpose of the factual analysis in each case was to assist
14 you in wrapping your mind around the various issues.

15 **MR. McCONNERY:** Yes.

16 **MR. LEE:** And you told us that you would
17 have done these in handwritten form and what we have now is
18 courtesy of someone else having typed them up.

19 **MR. McCONNERY:** Yes, I believe it was
20 probably a secretary in Mr. Stewart's office.

21 **MR. LEE:** Do you recall whether or not your
22 handwritten notes would have been roughly in the same form
23 that we see them here, in sort of a narrative form broken
24 down with headlines or were they more in the nature of
25 notes that you would have taken as you went through

1 documents?

2 **MR. McCONNERY:** I think the form of the
3 factual analysis was something that I probably took from
4 Kevin Phillips but then when I wrote it out in longhand, I
5 used that way of doing it.

6 **MR. LEE:** And you told us ---

7 **MR. McCONNERY:** I wrote it out as it was
8 eventually typed up.

9 **MR. LEE:** Okay.

10 **MR. McCONNERY:** I believe.

11 **MR. LEE:** Okay.

12 **MR. McCONNERY:** Thank you.

13 **MR. LEE:** And you told Miss Simms in-chief
14 that -- let me back up. As I understood it, at the time
15 you were preparing each factual analysis, it wasn't your
16 intention to provide it to the police along with the
17 opinion letter. Is that correct?

18 **MR. McCONNERY:** You know, I don't think that
19 I had that in mind, but if Pat Hall asked me for it, I
20 don't think I had any problem giving it to him. I didn't
21 do it with a view to giving it to the police.

22 **MR. LEE:** Do you have any specific
23 recollection one way or the other whether Pat Hall did ask
24 you for these and whether you provided them?

25 **MR. McCONNERY:** I have some recall of

1 Officer Hall asking for them.

2 MR. LEE: And do you recall in relation of
3 which briefs, all of them?

4 MR. McCONNERY: Most likely the conspiracy
5 allegation.

6 MR. LEE: Okay. And in the final analysis,
7 I take it your final statement on the matter is
8 encapsulated in the opinion letter itself?

9 MR. McCONNERY: Yes.

10 MR. LEE: And that's the conclusion you came
11 to whereas the factual analysis is exactly that; it's an
12 analysis leading to a conclusion. Is that right?

13 MR. McCONNERY: Analysis is a word. What I
14 was doing was setting out the allegations, setting --
15 trying to capture for myself some of the issues I saw and
16 there's not really an analysis as such in those documents.
17 It's here are the things; here are some problems.
18 Analysis, I think, is when you highlight the problems. You
19 then go at it and try to analyse it. I don't think I was
20 doing that in those documents.

21 They were really notes to assist me and ---

22 MR. LEE: Right.

23 MR. McCONNERY: I call them a factual
24 analysis.

25 MR. LEE: Do you recall doing a factual

1 analysis in this form on any file other than those you
2 dealt with relating to Project Truth?

3 **MR. McCONNERY:** No. I've never used this,
4 no.

5 **MR. LEE:** Mr. Horn asked you a few moments
6 ago about Albert Lalonde. I haven't been able to find a
7 factual analysis in relation ---

8 **MR. McCONNERY:** No. No, I did not.

9 **MR. LEE:** Okay.

10 **MR. McCONNERY:** No, I didn't do it with
11 respect to Mr. Lalonde.

12 **MR. LEE:** Okay.

13 You talked at various times during your
14 examination in-chief about how you see the role of the
15 Crown as opposed to how you see the role of the police.
16 And I take it from a starting point it would never be
17 permissible for the Crown to decide reasonable and probable
18 grounds for the police. Is that correct?

19 **MR. McCONNERY:** Generally speaking it's
20 correct. But I think you have to appreciate how the police
21 brings some of these matters to the Crown and the kind of
22 advice they're seeking.

23 If an officer comes in and he has no
24 difficulty with subjective belief in what he's been advised
25 or learned during his investigation, his question may be

1 more technical. "Do you feel, Mr. Crown, that on these --
2 let me use the word "believable" allegations, do they make
3 out an offence?" All right.

4 But I would never say, "Officer, you should
5 believe this" you know, but does it -- okay. So I'm
6 looking at the objective assessment of whether or not it
7 objectively meets the elements of the offence. I could
8 certainly give direction in that regard but I can't tell an
9 officer "You do have reasonable and probable grounds".

10 **MR. LEE:** And when you look at the matters
11 that you dealt with that we're concerned with, that was
12 never the situation. The situation was always the reverse
13 where the officer was coming to you saying, "I don't
14 believe I have RPG, but I'd like a second opinion
15 essentially".

16 **MR. McCONNERY:** Yes, but I think you should
17 recall that I was just given the briefs and asked to review
18 them, and it was only subsequently that I sat down with
19 Officer Hall, and said, "Okay, now, tell me what your
20 position is and the position of your officers."

21 **MR. LEE:** Right. At the time you delivered
22 your opinions in these matters you knew what the position
23 of the officer was?

24 **MR. McCONNERY:** Absolutely, yes.

25 **MR. LEE:** And that was important information

1 for you?

2 **MR. McCONNERY:** Yes, it was.

3 **MR. LEE:** You said a moment ago it wouldn't
4 be permissible for you to say "Officer, I believe you're
5 mistaken and you do have RPG here."

6 You can't go that far. Is that fair?

7 **MR. McCONNERY:** Except on ---

8 **MR. LEE:** On the objectives?

9 **MR. McCONNERY:** --- yes, yes.

10 **MR. LEE:** But globally, "Officer, you have
11 RPG. You should lay a charge." That's taking it too far?

12 **MR. McCONNERY:** I'm just trying to get my
13 mind around whether there's a scenario that that can
14 happen. But if an officer is telling me that he has
15 concerns relating to credibility and subjective belief,
16 that's a hurdle I can't help him get over.

17 **MR. LEE:** Would it be permissible for you to
18 tell an officer ---

19 **MR. McCONNERY:** But I might give him advice
20 if it occurred to me, "Do this follow up. You know, maybe
21 you can satisfy yourself that there is some other
22 supporting evidence out there that will get you over that
23 hurdle".

24 **MR. LEE:** I take it it's entirely possible
25 you would examine a brief, scrutinize the investigation and

1 think it's not yet time to make a final determination on
2 RPG because I don't think you've exhausted all avenues of
3 investigation?

4 **MR. McCONNERY:** Yes. Yes.

5 **MR. LEE:** And that changes the situation a
6 little bit.

7 **MR. McCONNERY:** Yes, it does.

8 **MR. LEE:** As opposed to when you have a
9 brief that you're satisfied with the investigation.

10 **MR. McCONNERY:** Right.

11 **MR. LEE:** And you need to make a final call.

12 **MR. McCONNERY:** But I think in at least one
13 -- or maybe there was only one significant letter of
14 opinion -- but I try to say it is my opinion based on all
15 of this material I've seen and that's my opinion today.

16 So if somebody said yesterday if you added
17 another person coming forward and another bit of evidence
18 and, you know, it could dramatically change but -- so it's
19 always based upon what you've got.

20 **MR. LEE:** In your mind would it ever be
21 permissible to tell an officer -- rather than going
22 directly to RPG, would it be permissible to tell an
23 officer, "Officer, based on the evidence here and the facts
24 as we have them, I think I could get a conviction"?

25 **MR. McCONNERY:** When I'm doing an ---

1 **MR. LEE:** When you're doing an RPG
2 assessment.

3 So essentially, in other words, rather than
4 directly answering the RPG question, you sort of let the
5 officer know that were charges to be laid, you're fairly
6 confident in your ability to prosecute?

7 **MR. McCONNERY:** You know, I probably have
8 said that. Sometimes I think you have to appreciate what
9 the police -- the police don't come in and say Mr.
10 McConnery or Mr. Crown or whoever I'm dealing with, would
11 you do an analysis of whether or not there's RPG here.

12 They come in and say what do you think it
13 is? Do you think we should lay charges? If I lay charges,
14 are you going to turn around and withdraw them, Mr. Crown?
15 And you look at me and say, "Well, I'd be comfortable
16 prosecuting this matter".

17 So it sort of addresses both but you've
18 jumped way ahead. You're down the line. You're giving
19 really an opinion on RPC, reasonable prospect of
20 conviction.

21 **MR. LEE:** Can we take a look just very
22 briefly at a couple of opinion letters, if I could?

23 You looked a moment ago -- we'll start
24 hopefully at the binder in front of you. It's Exhibit
25 1704. That's the Albert Lalonde opinion.

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

2 **MR. McCONNERY:** Yes.

3 **MR. LEE:** And so this is the letter to Jeff
4 Carroll of the Cornwall Police. And you set out in the
5 first paragraph what you've reviewed.

6 Do you see that?

7 **MR. McCONNERY:** Yes.

8 **MR. LEE:** In the second paragraph you
9 explain how RPG is assessed by an officer, and you say in
10 the last sentence of that paragraph:

11 "You have expressed quite clearly to me
12 in our discussions the concerns you
13 have about that subjective element."

14 Do you see that?

15 So this is a case where you knew that Jeff
16 Carroll wasn't at RPG?

17 **MR. McCONNERY:** Yes.

18 **MR. LEE:** And then your next couple of
19 paragraphs tell Jeff Carroll what you've -- the decision
20 you've come to, and you say:

21 "In reviewing your brief, the OPP
22 brief, and the voluminous Project Truth
23 briefs involving allegations against
24 Father MacDonald by Albert Lalonde, I
25 feel your concerns are very well

1 founded. The allegations of Lalonde
2 surfaced and were investigated in the
3 early to mid-1990s.
4 Those charges were reviewed by
5 investigators who did not believe
6 reasonable and probable grounds existed
7 then. A Crown review then supported
8 that position."

9 **MR. McCONNERY:** That should have said those
10 allegations were reviewed. I think it's clear what I
11 meant.

12 **MR. LEE:** That's fine.

13 And in the following paragraph, again:

14 "I find your position that reasonable
15 and probable grounds to lay criminal
16 charges against Father MacDonald do not
17 exist to be a reasonable and
18 appropriate determination by you."

19 Do you see that?

20 **MR. McCONNERY:** Yes.

21 **MR. LEE:** Would you agree with me that
22 looking at this document in isolation it's -- you don't set
23 out any kind of analysis, you don't set out what concerns
24 you may have had ---

25 **MR. McCONNERY:** No.

1 **MR. LEE:** --- with credibility, you don't
2 set out concerns you may have had with ---

3 **MR. McCONNERY:** No, quite clearly I didn't.
4 That's correct.

5 **MR. LEE:** Why not?

6 **MR. McCONNERY:** Why not?

7 **MR. LEE:** Yes.

8 **MR. McCONNERY:** Quite frankly, I think this
9 is the way, traditionally, letters of opinion are written.
10 And certainly when I came to this assignment in Project
11 Truth I spoke to others and -- to others meaning Murray
12 Segal for instance -- and we talked about the letters of
13 opinion and he indicated to me and I believe -- I seem to
14 recall a discussion with John Pearson as well, just in --
15 you know, you don't have to in writing a letter of opinion
16 go do a breakdown of everything and say why you don't
17 believe this, why you don't think that. You're being asked
18 for an opinion and the letter should only be an expression
19 of that opinion.

20 **MR. LEE:** I'm not going to suggest now or
21 later that your opinion should be written so as to make our
22 lives easier at a public inquiry and going behind it.

23 But you'll agree with me that when we have a
24 document like this we're not getting much; it makes our
25 life a little bit miserable in trying to go behind the

1 opinion?

2 **MR. McCONNERY:** Yeah.

3 **MR. LEE:** Your opinion is very to the point.
4 I agree what you've said to me is reasonable, full stop,
5 right, and that's ---

6 **MR. McCONNERY:** I agree.

7 **MR. LEE:** Can you -- I just want to make
8 sure I'm clear on this, and I don't necessarily mean in the
9 context of Albert Lalonde, in particular, just generally.

10 Where you have a police officer come to you
11 and say that "I don't think I'm at RPG, I have concerns" --
12 whatever the nature of those concerns ---

13 **MR. McCONNERY:** Yes.

14 **MR. LEE:** --- and you satisfy yourself that
15 the investigation has been reasonable and well done and
16 that there are no avenues left to pursue, what would it
17 take for you to come back to the officer and say, "I think
18 you might be wrong about RPG"?

19 I mean, do you have a not necessarily a
20 legal test but at least a practical test in your mind of --
21 would the officer's opinion have to be utterly unreasonable
22 as to RPG? Would you have to be left just completely
23 scratching your head as you review the brief of how he
24 could not possibly be at RPG in order for you to come back
25 and say you think he may be mistaken?

1 **MR. McCONNERY:** I think I've been in the
2 position where I've read a brief where an officer is
3 saying, "I don't think we have it here" and I'm of the view
4 that it's there because I don't share the concern about
5 credibility.

6 But I'm always -- what's the right word -- I
7 always have to bear in mind that I'm reading things in
8 black and white; the officer is dealing with people. The
9 officer is interviewing people, he's seeing people, he's
10 doing an assessment, he or she. I also try to be aware as
11 to whether or not in dealing with an officer he's
12 projecting or she's projecting any sense of prejudice or
13 unfairness in a view he's taking, and we run into that
14 occasionally. So, you know, I have to try to measure that.

15 Not often am I asked to do a letter of
16 opinion in writing. An officer will submit a brief. Can I
17 give you an example? It's not related to this.

18 I received a brief on a case just months
19 ago. The officer referred to it as a "branding case" where
20 a young man, somewhat challenged, consented to being
21 branded, and his girlfriend used some kind of a searing hot
22 device and put a huge branding mark on his back, and the
23 issue was, did this merit criminal prosecution; was it in
24 the public interest to prosecute it.

25 The officer had some concerns about the

1 evidence of the complainant but, you know, I reviewed
2 photographs, I read his statements, I watched the interview
3 of the complainant, I watched the interview of the accused.
4 I said to him, "I'm not sure I share your concern about the
5 credibility of the complainant. I'm not sure it's an
6 assault. Could it be a charge of unlawfully causing bodily
7 harm?" I don't think he had turned his mind to that.

8 So there are all kinds of things that come
9 into play. I don't generally find myself in a situation
10 where I say to an officer, "I have no idea why you don't
11 believe this complainant. I think you should go out and
12 lay the charge." That doesn't happen very often. There's
13 a whole panoply of things that one can look at where you
14 might disagree with the investigator.

15 **MR. LEE:** What I'm wondering is if in a case
16 where you're asked for a written opinion, and it's a close
17 call in your mind, do you think ---

18 **MR. McCONNERY:** I've never been asked for a
19 written opinion, other than in this case.

20 **MR. LEE:** Then in the cases that we've been
21 looking at?

22 **MR. McCONNERY:** That's right.

23 **MR. LEE:** Would you have been comfortable in
24 these cases, had it been a close call, writing anything
25 other than what you've essentially written in the letter

1 we've looked at?

2 **MR. McCONNERY:** If I was asked for it and I
3 would have.

4 **MR. LEE:** Did you think at any point, as you
5 were reviewing the conspiracy brief and these other briefs,
6 given what you knew about the officers' feelings on RPG,
7 that it was a bit of a pointless exercise from your point-
8 of-view?

9 **MR. McCONNERY:** I felt that everyone felt
10 they were under such scrutiny. I felt that the scrutiny
11 was such that getting a second opinion was probably a
12 pretty wise decision.

13 **MR. LEE:** Did you get the impression the
14 police at least were quite content to have you take a look
15 and write letters on these things?

16 **MR. McCONNERY:** Oh, absolutely.

17 **MR. LEE:** That may be a good time for a
18 break, sir.

19 **THE COMMISSIONER:** Thank you.

20 We'll take the morning break.

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

23 This hearing will resume at 11:20 a.m.

24 --- Upon recessing at 11:04 a.m./

25 L'audience est suspendue à 11h04

1 ---Upon resuming at 11:24 a.m./

2 L'audience est reprise à 11h24

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

5 This hearing is now resumed. Please be
6 seated. Veuillez vous asseoir.

7 **LORNE McCONNERY, Resumed/Sous le même serment:**

8 ---CROSS-EXAMINATION BY/CONRE-INTERROGATOIRE PAR MR. LEE
9 (cont'd/suite):

10 **THE COMMISSIONER:** Mr. Lee?

11 **MR. LEE:** Sir, you were speaking before the
12 break, giving us by way of an example, a discussion of RPG
13 in your assessment and the branding case that you dealt
14 with relatively recently.

15 **MR. McCONNERY:** Yes.

16 **MR. LEE:** That was a case where you were
17 able to go back to the officer and say that he may not have
18 considered all of the possible charges and that may have
19 changed his assessment?

20 **MR. McCONNERY:** Yes, but I think it was also
21 a case where he had some concerns about the complainant.

22 **MR. LEE:** In a case where you're satisfied
23 with the investigation, where the charge that applies is
24 obvious, have you ever just simply overridden an officer on
25 a question of RPG?

1 **MR. McCONNERY:** I don't think so.

2 **MR. LEE:** Would you ever be able to do that
3 or is that not your role, as you view it?

4 **MR. McCONNERY:** I don't know if this is
5 really what you're expecting, but I may have overridden an
6 officer by going the other way.

7 **MR. LEE:** Where he thought he did have RPG
8 and you ---

9 **MR. McCONNERY:** Yes.

10 **MR. LEE:** --- explained he didn't?

11 **MR. McCONNERY:** And I questioned that
12 judgment.

13 **MR. LEE:** And what about going -- and I take
14 it in that situation, you would agree with me, is slightly
15 different than going the other way, in the sense that a
16 decision by a Crown to overrule an officer's assessment
17 that he does have RPG is to the benefit of the accused?

18 **MR. KLOEZE:** Excuse me, Mr. Commissioner, if
19 I can just ask for clarification.

20 My friend's asking -- the way that my
21 friend's asking the question in terms of overriding and
22 overruling, I think the evidence is that Mr. McConnery is
23 merely giving opinions in those cases and not necessarily
24 overriding anything.

25 **THE COMMISSIONER:** No, no, but he's asking

1 specifically of whether he would override somebody. So I
2 think that's fair.

3 **MR. LEE:** I think Mr. Kloeze's right, that
4 the way I phrased it suggests that, you know, we've seen a
5 great number of Crown opinions in this proceeding, Mr.
6 Commissioner, and they always tend to end with the phrasing
7 ---

8 **THE COMMISSIONER:** Oh yes.

9 **MR. LEE:** --- that says something along the
10 lines of understand this is just an opinion and you're free
11 to do what you like, and it's the role of the police to lay
12 charges.

13 **MR. McCONNERY:** Yes.

14 **MR. LEE:** You, I take it, would understand
15 as a Crown that if you wrote an opinion saying, "Officer,
16 you're mistaken; you do have RPG here, but do what you
17 like; the charge is going to be laid," you would understand
18 that, wouldn't you?

19 **MR. McCONNERY:** I would never write an
20 opinion that said, "Officer, you do have RPG."

21 **MR. LEE:** And that's some ---

22 **MR. McCONNERY:** How can I do that?

23 **MR. LEE:** And that's some of what I'm asking
24 you.

25 **MR. McCONNERY:** Yes.

1 **MR. LEE:** And when I get to your role, I
2 take it you see your role as not contemplating that at all?
3 You can't go that far?

4 **MR. McCONNERY:** No. I might, if I were
5 asked to write an opinion, which I'm not usually asked to
6 do, I might say "I'm not sure why you have the concerns
7 about the subjective belief in the allegations. Here's what
8 I find supports the allegations. This is my opinion with
9 respect to the issue of reasonable and probable grounds,
10 and it's your call."

11 **MR. LEE:** You have to be very careful in
12 those situations, I take it?

13 **MR. McCONNERY:** Absolutely.

14 **MR. LEE:** Turning our attention to the issue
15 that arose in relation to the Charles MacDonald proceedings
16 and the appointment of Justice Chilcott to that proceeding
17 ---

18 **MR. McCONNERY:** Yes.

19 **MR. LEE:** --- you spoke a lot about sort of
20 the genesis of how that issue arose, and I take it once a
21 motion is settled and once you weren't quite as angry and
22 surprised by what had happened, you didn't seriously think
23 that Mr. Neville had somehow influenced the selection of a
24 judge. Is that correct?

25 **MR. McCONNERY:** Did I seriously think it?

1 **MR. LEE:** Yes.

2 **MR. McCONNERY:** At one point I did.

3 **MR. LEE:** That's what I'm saying. Once a
4 motion is calmed down and you had spoken to the regional
5 senior justice staff and you had talked to James Stewart, I
6 take it you were of the view that that wasn't going to be a
7 ground you were going to pursue in any way?

8 **MR. McCONNERY:** I'm not sure that the staff
9 calmed my concerns. They may have heightened my concerns.
10 You know, when the first response is, "Don't shoot the
11 messenger" I didn't take that as soothing my concerns.

12 But Jim Stewart followed up on it.

13 **MR. LEE:** Right.

14 **MR. McCONNERY:** He wrote and he got a
15 response in writing from the senior regional judge, and I
16 think by that point my view was it would have bordered on
17 scandalous for us to consider bringing a motion to have
18 every Superior Court judge in eastern Ontario recuse
19 himself from this trial.

20 And I don't even know how he could have --
21 and let me tell you; this would never have been on my
22 plate.

23 **MR. LEE:** Okay.

24 **MR. McCONNERY:** Okay? That was very clear
25 that I was there to do the trial. I wasn't there to climb

1 that mountain, and if I raised a concern it would have been
2 dealt with by Stewart or somebody else. And, you know, we
3 had those kinds of discussions. How can you do that?

4 We would look -- if we had nothing more than
5 what we thought, asking that every judge from the eastern
6 region -- I don't think Mr. Segal was very pleased with our
7 thought process.

8 **MR. LEE:** That's what I was about to ask.

9 And the obvious problems with that
10 contemplated approach were driven home by Mr. Segal in his
11 conversation with yourself and Mr. Stewart?

12 **MR. McCONNERY:** Yes, I agree with that.

13 **THE COMMISSIONER:** So what are the obvious
14 problems? I don't ---

15 **MR. LEE:** I meant in terms of the problems
16 that the witness has explained in terms of making an
17 application to have every judge of the eastern region
18 recuse himself in terms of -- you know, I thought the
19 witness had given us his explanation of Mr. Segal -- what
20 Mr. Segal's opinion was and what he and Mr. Stewart thought
21 of that, and my understanding of his evidence was that they
22 agreed with Mr. Segal and that they decided more or less at
23 that time that that just wasn't going to happen, wasn't
24 something they were going to pursue.

25 **MR. McCONNERY:** The only thing I would say

1 is I'm not sure when we spoke with Murray Segal -- Mr.
2 Segal ---

3 **MR. LEE:** Right.

4 **MR. McCONNERY:** --- in relation to those --
5 the contact with the regional judge.

6 **MR. LEE:** Let's take a look -- maybe I can
7 put this another way.

8 Can we take a look at Exhibit 3063, please?

9 **THE COMMISSIONER:** I guess what I find, when
10 I look forward to who did the other matters when the Leduc
11 matter came back, it was an out-of-region judge.

12 And so do you not have experience in your
13 bailiwick where if a police or a prominent person is
14 involved, that you bring it forward to either an
15 administrative judge or to the regional senior and say,
16 "Just so you know, this person is this person and you might
17 want to consider that" or "This is a problem that you might
18 want to consider appointing another out-of-town or out-of-
19 region person"? Do you do that in your bailiwick?

20 **MR. McCONNERY:** We do it. We do it
21 frequently. It seldom requires you to go as far as going
22 out of the region.

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

24 **MR. McCONNERY:** We might go out of town. I
25 would say out of town, you know.

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

2 **MR. McCONNERY:** You know, we might ask that
3 instead of a Barrie or Simcoe County judge hear it,
4 somebody from Durham, who usually sits in Durham. Has it
5 gone further than that? I've probably had that experience.

6 I've never had to go to the point of making
7 an application to say no judge in this jurisdiction -- and
8 sometimes, Mr. Commissioner, we would have something where
9 there might be a conflict, but we're still able to do it
10 within our own office in the sense that there's a new
11 addition at the office who knows -- doesn't know the
12 officer for instance who's charged, and the regional Crown
13 would be consulted and he may say, "Well, let the newest
14 member who has just transferred in take that prosecution."

15 **THE COMMISSIONER:** Okay.

16 **MR. McCONNERY:** So -- sorry.

17 **MR. LEE:** Exhibit 3063 is the email or memo
18 or whatever we're going to call it from Mr. Stewart and
19 it's undated.

20 I take it given the content of it you would
21 agree that this must have preceded the conversation with
22 Murray Segal and, in particular, if you look towards the
23 bottom, where he's laying out the possible options of what
24 you may do?

25 **MR. McCONNERY:** I would think it does, yes.

1 This -- to me, this is Jim Stewart's ramblings.

2 MR. LEE: Yes.

3 MR. McCONNERY: He would put them down on
4 paper sometimes.

5 MR. LEE: Yes.

6 MR. McCONNERY: Sometimes I would go into
7 his office and Mr. Stewart would share with me his views on
8 how you might cross-examine somebody, and sometimes he
9 would type it out. They're just thoughts he had, and
10 that's what this was, and he felt it was a troubling sort
11 of scenario. It was sort of a discussion thing between us,
12 I think.

13 MR. LEE: And when you look at this
14 document, by the time it's composed, the problem being
15 cited by Mr. Stewart seems to very clearly be the
16 appearance of how this thing is going to look. As an
17 example, about five lines down he says:

18 "The optics are terrible."

19 MR. McCONNERY: Sure.

20 MR. LEE: And in the third line, the end of
21 the second line to the third line:

22 "There's the appearance that somehow
23 the accused selected the trial judge."

24 Do you see that?

25 MR. McCONNERY: Yes.

1 **MR. LEE:** And if you look at the very last
2 sentence of the memo, he writes:

3 "I'm sure that the public would be
4 outraged if there was the perception
5 that the accused gets to pick their
6 judge."

7 Do you see that?

8 **MR. McCONNERY:** Yes.

9 **MR. LEE:** And that last line in particular,
10 obviously you can't argue with that? You would agree with
11 that sentiment?

12 **MR. McCONNERY:** Yes.

13 **MR. LEE:** And we then know, as it came out
14 during your examination-in-chief, that Mr. Stewart writes
15 to Regional Senior Justice Cunningham, and that's at 3064,
16 the next document you have.

17 **MR. McCONNERY:** Yes.

18 **MR. LEE:** And those concerns aren't
19 reflected in here. His concern, as it's articulated to
20 Regional Senior Justice Cunningham, is the fact that
21 there's been such a rescheduling of this matter without any
22 consultation with the Crown?

23 **MR. McCONNERY:** I'm sorry, yes, I see your
24 point. Yes.

25 **MR. LEE:** He doesn't say to Regional Senior

1 Justice Cunningham, "We're concerned that Defence picked
2 the judge here"?

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

4 **MR. LEE:** And he doesn't say to Regional
5 Senior Justice Cunningham, "We're not necessarily concerned
6 that the Defence picked the judge; we're concerned that it
7 may appear." That's not something that he addressed with
8 Justice Cunningham?

9 **MR. McCONNERY:** He doesn't say anything like
10 that, no.

11 **MR. LEE:** And Regional Senior Justice
12 Cunningham ends up writing back at the end of the day and
13 saying, "The decision has been made. It is what it is.
14 There's no need for a meeting."

15 Do you recall that?

16 **MR. McCONNERY:** I saw the response.

17 **MR. LEE:** Right.

18 **MR. McCONNERY:** Well, it's the next exhibit,
19 yes.

20 **MR. LEE:** Right.

21 And as far as you know, I take it Mr.
22 Stewart doesn't respond back to Justice Cunningham and say,
23 "No, no, I think we really do need to meet so that perhaps
24 this issue could be addressed in a meeting"?

25 **MR. McCONNERY:** I believe that's accurate.

1 **MR. LEE:** You have no knowledge of any such
2 meeting having taken place?

3 **MR. McCONNERY:** I don't believe there was
4 any such meeting and I don't believe that Mr. Stewart would
5 have had the meeting without Mr. Neville.

6 **MR. LEE:** What I'm interested to get your
7 take on is you told us very near the beginning of your
8 evidence that by the time you came to Cornwall, you had
9 heard about the allegations being made by Gary Guzzo and
10 about incompetence and about cover up and about other
11 things, and you had turned your mind to the fact that there
12 may be a public inquiry down the road?

13 **MR. McCONNERY:** By the time I came, I would
14 say very early after I arrived.

15 **MR. LEE:** Certainly before this time?

16 **MR. McCONNERY:** Oh, yes.

17 **MR. LEE:** And you told us that your thoughts
18 in that regard had affected your actions in some ways, as
19 an example, note taking?

20 **MR. McCONNERY:** Yes.

21 **MR. LEE:** And as you said, you were going to
22 be diligent and you were going to put things to paper when
23 you normally wouldn't, just in case you found yourself
24 where you are today?

25 **MR. McCONNERY:** Yes.

1 **MR. LEE:** And I take it, in hindsight,
2 you're quite pleased that you did that, that you have these
3 notes, that you have documents you can rely on?

4 **MR. McCONNERY:** If I didn't have the notes I
5 probably would have been done two days ago.

6 **MR. LEE:** I wouldn't count on it, sir.

7 **(LAUGHTER/RIRES)**

8 **MR. McCONNERY:** Certainly, it's been of
9 great assist to me that I made the notes that I did.

10 **MR. LEE:** And I take it by the time this
11 issue with Justice Cunningham arises, you would have
12 assessed the likelihood of the 11(b) application
13 succeeding?

14 **MR. McCONNERY:** Yes.

15 **MR. LEE:** And you would have, I take it, by
16 this time been of the opinion it was likely that the
17 application would succeed?

18 **MR. McCONNERY:** Yes.

19 **MR. LEE:** Okay. And given those facts, do
20 you believe that Regional Senior Justice Cunningham should
21 have been made aware of what Justice Chilcott potentially
22 was stepping into? Because we have a number of factors.
23 We have an 11(b) application that probably isn't going to
24 go the Crown's way and we have this issue having come up
25 and you have some knowledge that there may well be a public

1 inquiry at the end of the day.

2 So it seems to me at that point in time it's
3 reasonably foreseeable that we're going to be here at some
4 point discussing this very matter. And we end up with a
5 situation where Chilcott issues a stay decision and now
6 we're talking about whether or not he should have been
7 there at all.

8 Were there any discussions between you and
9 Stewart or you, Stewart and Segal about those issues?

10 **MR. McCONNERY:** No. In fact, if I can say,
11 I have no difficulty at all with the appointment of Justice
12 Chilcott. It was just the appearance that he was the
13 presiding judge because the defence wanted him. You know,
14 typically as a Crown or as defence, you talk about who your
15 trial judge is going to be and you assess your trial judge.

16 I knew Justice Chilcott. I believe I
17 appeared in front of him. I testified in front of him on
18 one occasion and I prosecuted against him on earlier
19 occasions. So I had no difficulty with Justice Chilcott as
20 the trial judge. What angered me was the adjournment
21 without ever being supplied any reason. That still hasn't
22 happened. And having spoken to Mr. Neville and he had
23 expressed to me his -- I'm going to say his upset and then
24 expressing who he wanted to have hear the trial and, by
25 gosh, it happened two days later, I was concerned about

1 that.

2 **MR. LEE:** You know as well as anyone what
3 the reaction of many in this community was to the stay
4 decision? You told about chants outside the courthouse.

5 **MR. McCONNERY:** But that wasn't new in this
6 case.

7 **MR. LEE:** No, but ---

8 **MR. McCONNERY:** I was aware -- some of that
9 had happened as early as the first preliminary hearing in
10 the mid '90s.

11 **MR. LEE:** In a typical case that is not
12 likely to find its way before a public inquiry ---

13 **MR. McCONNERY:** Yes.

14 **MR. LEE:** --- I think you could likely look
15 at the situation you were faced with in 2002 and think the
16 public may have an issue with this, but really they're
17 never going to find out. It's never going to be made
18 public. We don't have concerns with Justice Chilcott, so
19 we don't need to worry about it.

20 In this case it was the opposite. This was
21 likely going to become public. And just all I'm asking of
22 you is was there any serious consideration given to the
23 fact that Regional Senior Justice Cunningham should have
24 been made aware of everything that was going on and the
25 concerns about optics so that he could make the decision as

1 to whether or not he would take steps to bring in somebody
2 from outside the region?

3 **MR. McCONNERY:** I don't recall. I don't
4 recall us having that kind of discussion.

5 You know, and sometimes it's just in passing
6 back and forth in general conversation about Project Truth
7 and the various issues we had. One might make a comment,
8 "How would this look like in a courtroom? You know, if you
9 had to give evidence about this, how might this look in
10 front of an inquiry?" I don't know that we got to
11 considering that point with respect to the Justice Chilcott
12 thing.

13 Quite frankly, I think that the way I sort
14 of read the position after we had brought Mr. Segal into it
15 was, boys, you're overreacting.

16 **MR. LEE:** And -- I'm going to leave it.

17 We looked yesterday very briefly at -- I
18 don't think you need to turn it up -- Exhibit 3059. Those
19 are Officer Ron Lefebvre's notes of the original Silmsler
20 interview. Do you recall that?

21 **MR. McCONNERY:** Yes.

22 **MR. LEE:** And there was some discussion
23 about those having been included in the Dunlop materials?

24 **MR. McCONNERY:** Yes.

25 **MR. LEE:** Do you recall that?

1 **MR. McCONNERY:** Yes.

2 **MR. LEE:** And as I understand it, defence
3 hadn't received disclosure of those notes until he received
4 disclosure of the Dunlop boxes. Is that your
5 understanding?

6 **MR. McCONNERY:** I'm not sure when I had that
7 understanding. I think originally Mr. Neville wrote a
8 letter asking who the author of these notes was and so we
9 tried to respond to that. You know, I don't have anything
10 that assists me that Mr. Neville was saying to me, "I've
11 never been supplied these notes before". I know that
12 during the course of the 11(b) application he said he
13 hadn't received them.

14 **MR. LEE:** Right.

15 That was your understanding of the defence
16 position, that he hadn't seen them?

17 **MR. McCONNERY:** Yes.

18 **MR. LEE:** Until he got the Dunlop boxes?

19 **MR. McCONNERY:** I'm just not sure when I
20 first realized that he was ---

21 **MR. LEE:** And ---

22 **MR. McCONNERY:** And I'm not sure how
23 significant the notes were.

24 **MR. LEE:** Did you make any inquiries to
25 determine whether or not that was accurate?

1 **MR. McCONNERY:** That they hadn't been ---

2 **MR. LEE:** That they had not been disclosed
3 prior to the Dunlop materials being disclosed?

4 **MR. McCONNERY:** You know, I think the best
5 answer I can tell you is that I had a general discussion
6 and was told, "We do not have any record of what was
7 disclosed when."

8 **MR. LEE:** Okay.

9 **MR. McCONNERY:** Right.

10 **MR. LEE:** And so I take it from that you
11 can't help us out at all with whether or not the Crown had
12 possession of the Lefebvre notes prior to the Dunlop
13 materials?

14 **MR. McCONNERY:** That's a good question.
15 That's a good question and I can't answer it.

16 **MR. LEE:** You just don't know?

17 **MR. McCONNERY:** I don't remember now.

18 There was a letter from Mr. Neville I think
19 about those notes. So what it makes me think, sir, is that
20 whether or not I had them, by the time I was actually
21 preparing witnesses in my own mind for a trial. I had them
22 because I had them from the Dunlop box.

23 **MR. LEE:** Certainly you had them from the
24 Dunlop boxes?

25 **MR. McCONNERY:** Yes.

1 **MR. LEE:** And certainly once Mr. Neville had
2 them, obviously you would have had them.

3 I'm wondering if you can help me out at all
4 with prior to that.

5 **MR. McCONNERY:** That's what I'm saying, by
6 the time it came to preparing witnesses, I had it and I
7 don't know if I ever turned my mind to whether or not it
8 had been amongst the material I had earlier or not.

9 **MR. LEE:** Okay. You spoke -- shifting
10 focus, you spent a fair amount of time explaining to us
11 exactly what you understood your task to be in relation to
12 the conspiracy opinion.

13 **MR. McCONNERY:** Yes.

14 **MR. LEE:** What you were looking at and what
15 you weren't looking at.

16 At the end of the day, towards the end of
17 Project Truth when it was nearing its conclusion, I take it
18 you were never asked to provide a further opinion in
19 relation to any conspiracy allegations?

20 **MR. McCONNERY:** No, I wasn't.

21 **MR. LEE:** Or any other allegations for that
22 matter?

23 **MR. McCONNERY:** No, I wasn't.

24 **MR. LEE:** The briefs that we looked at are
25 the briefs you provided opinions on?

1 **MR. McCONNERY:** Yes. I was consulted,
2 though, by Pat Hall and I referred him to Mr. Stewart.

3 **MR. LEE:** Right.

4 But you didn't ---

5 **MR. McCONNERY:** But those matters I talked
6 about.

7 **MR. LEE:** You didn't provide an opinion?

8 **MR. McCONNERY:** I never got another brief.

9 **MR. LEE:** Okay.

10 **MR. McCONNERY:** Other than the one from
11 Sergeant Carroll.

12 **MR. LEE:** Ms. Simms, during your examination
13 -- I'm just going to try to refresh your memory here,
14 hopefully without going to the documents -- Ms. Simms,
15 during her examination in-chief, took you to a few
16 documents that Mr. Leduc had faxed to Mike Fagan. They
17 were very short, French-language release titled "Reçu et
18 quittance"?

19 **MR. McCONNERY:** Yes.

20 **MR. LEE:** And then there was the same
21 document with an English translation scribbled on it. Do
22 you recall that?

23 **MR. McCONNERY:** From the office of Mr.
24 Leduc?

25 **MR. LEE:** Yes.

1 **MR. McCONNERY:** Yes.

2 **MR. LEE:** And one of the items that Ms.
3 Simms took you to was the covering letter that had been
4 sent to Mike Fagan from Mr. Leduc saying that these are not
5 what I would have provided Mr. MacDonald because he didn't
6 speak English.

7 Do you recall that? You looked at it
8 yesterday.

9 **MR. McCONNERY:** Yes, I do.

10 **MR. LEE:** And do you know Curt Flanagan?

11 **MR. McCONNERY:** Very well.

12 **MR. LEE:** When Mr. Flanagan was here a
13 little while ago I asked him -- he's the one who handled
14 the Malcolm MacDonald guilty plea on the obstruct justice
15 that resulted in the absolute discharge, and I asked him
16 whether or not those documents, the very short French
17 release and the handwritten English translation, were what
18 he filed as an exhibit on the obstruct justice sentence, or
19 the plea of guilt rather.

20 **MR. McCONNERY:** Yes.

21 **MR. LEE:** And he couldn't help me out. We
22 don't have those exhibits in the database. We don't have
23 documents with an exhibit stamp from that proceeding, so we
24 weren't able to tell and he couldn't help me out.

25 **MR. McCONNERY:** Do we know if there were

1 exhibits filed?

2 MR. LEE: We do. The transcript tells us
3 exactly what -- but it's not specific enough to tell us
4 exactly what it was.

5 MR. McCONNERY: Okay.

6 MR. LEE: I noticed last night though -- if
7 we can, Madam Clerk, look at Exhibit 2651, that's the
8 factual overview relating to the conspiracy, 2651.

9 (SHORT PAUSE/COURTE PAUSE)

10 MR. LEE: Oh, we're there? Sorry.

11 Can we go to Bates page ending 662? It's
12 about 43 pages in, Madam Clerk. I can give you the full
13 Bates page if that helps, 1018662.

14 Are you there, sir?

15 MR. McCONNERY: I'm just looking at the
16 monitor. I don't have the exhibit.

17 MR. LEE: Okay. The bottom of the middle
18 paragraph, please, Madam Clerk. Yeah, right there.

19 And what you have here is -- Appendix E is
20 where Ms. Simms took you, where we found those documents,
21 and you write:

22 "Attached as Appendix E are the
23 precedents that Mr. Leduc provided to
24 Constable Fagan and which were
25 allegedly used to draft the Silmsier

1 release and undertaking. These copies
2 are contained in the brief submitted to
3 Mr. Griffiths in 1994 and were made
4 exhibits on the plea of Malcolm
5 MacDonald on September 12, 1995."

6 Do you see that?

7 **MR. McCONNERY:** Yes, I do.

8 **MR. LEE:** So the information you had at the
9 time, at the very least, was that those documents we looked
10 at yesterday were indeed the ones that were filed on the
11 MacDonald guilty plea?

12 **MR. McCONNERY:** Well, it appears I had some
13 basis for believing that. I don't recall what it is now.

14 **MR. LEE:** Okay. And Ms. Simms pointed out
15 to you the fact that, as I said, the facts from Leduc to
16 Fagan set out that these were in fact not the ones that he
17 would have provided to Malcolm MacDonald and she thereafter
18 took you to an earlier draft of the final settlement
19 agreement that had some handwriting on it, and you
20 confirmed you didn't have that and Officer Smith confirmed,
21 when he was here, he had never seen it.

22 Did you understand that that Officer Smith
23 had testified to that effect?

24 **MR. McCONNERY:** I don't know if I was
25 provided that information.

1 Are you saying I was provided that
2 information yesterday?

3 **MR. LEE:** No, I'm asking you if in your
4 preparation for the Inquiry you understood that Officer
5 Smith had been here and said that at the time of his 1994-
6 1995 investigation, he hadn't seen that draft of the
7 release?

8 **MR. McCONNERY:** I don't believe I was ever
9 told that.

10 I actually know very little about what's
11 been said at the Inquiry. I don't think I knew that. I
12 think that when it was presented to me yesterday was the
13 first time.

14 **MR. LEE:** You had ever seen that?

15 **MR. McCONNERY:** No, I'm not saying that.
16 What I'm saying is the first time, like in relation to this
17 Inquiry, that I've seen it.

18 **MR. LEE:** Okay.

19 **MR. McCONNERY:** If I saw it back in 2001, I
20 don't recall it, but the first time I saw it during this
21 was when it was presented to me yesterday, I think. I met
22 with counsel for the Commission. I met with two other
23 members of the Commission team. I've spoken to Mr. Kloeze
24 and I have been shown a lot of documents.

25 **MR. LEE:** Okay. I understand that.

1 Ms. Simms asked you yesterday about bank
2 records and solicitors' files.

3 MR. McCONNERY: Yes.

4 MR. LEE: And what -- as I understood your
5 evidence, you told us that you had some recall of
6 discussing the possibility of search warrants and the
7 possible necessity of involving the Law Society?

8 MR. McCONNERY: Yes, that's correct.

9 MR. LEE: Do you have a firm recollection of
10 that or is that something that is a little bit foggy?

11 MR. McCONNERY: Well, I have a note about
12 search warrants.

13 MR. LEE: Yes.

14 MR. McCONNERY: All right? On a list of
15 items I was to talk to Inspector Hall about. My
16 recollection is that those were search warrants that might
17 have touched on solicitor-client privilege issues ---

18 MR. LEE: Right.

19 MR. McCONNERY: --- in that they would at
20 least be bank records, trust account records.

21 I'm not sure that I recall talking about an
22 attendance and execution of a search warrant at a
23 solicitor's law firm.

24 MR. LEE: Right.

25 MR. McCONNERY: But I think there was some,

1 probably very -- what's the word -- not a significant
2 discussion about it, but it may have been raised.

3 **MR. LEE:** And you also told us that the
4 clients -- so in this case Father Charles MacDonald, who
5 was being represented by Malcolm MacDonald, and Bishop
6 LaRocque, the head of the Diocese, who was being
7 represented by Leduc -- were not asked for releases to
8 allow the police to access the solicitors' files, but I
9 wasn't sure whether or not that fact had been considered or
10 that idea had been considered.

11 **MR. McCONNERY:** I don't recall being asked
12 that, but in any event, I don't recall considering it
13 either.

14 **MR. LEE:** Thank you.

15 And then you were also asked about a
16 statement of Helene Jones. Do you recall that, a former
17 assistant for Mr. Leduc?

18 **MR. McCONNERY:** Is that Glen Jones?

19 **MR. LEE:** No, Helene Jones.

20 **MR. McCONNERY:** Helene Jones? Yes, I do.

21 **MR. LEE:** I tried to French the name up a
22 little bit because it had an "E" on the end of it. It
23 didn't work out. We'll call her "Helen" Jones.

24 And you were shown Mr. Dupuis' will state,
25 and you'll recall that was the will state where he had

1 taken a statement and about a half hour later Ms. Jones had
2 called him back to say she had a recollection of having
3 been asked to erase the memory on a typewriter?

4 **MR. McCONNERY:** Yes.

5 **MR. LEE:** And you told us -- you recall that
6 you had read her statement, but you didn't recall that it
7 added something. I believe you told that to Mr. Horn at
8 the end of the day yesterday -- or added anything, rather.

9 **MR. McCONNERY:** I didn't believe Ms. Jones'
10 statement assisted us in anything.

11 **MR. LEE:** And ---

12 **MR. McCONNERY:** And I wasn't -- I didn't
13 recall the officer's note about the erasure of the memory
14 typewriter.

15 **MR. LEE:** I think I may know why and I'm
16 going to put that to you.

17 If we can look briefly at the will state,
18 Madam Clerk, it's 2615.

19 So as you can see, this is the -- the
20 subject name is "A Conspiracy to Obstruct Justice" and it's
21 a will state of Joe Dupuis. Do you see that?

22 **MR. McCONNERY:** Yes.

23 **MR. LEE:** And if we go, Madam Clerk, to the
24 seventh page, please?

25 This is where Ms. Simms took you yesterday,

1 towards the very bottom of the page. You can see on the 9th
2 of August 2000, he arrived at the Jones residence, written
3 interview, end of statement, and then he details the
4 telephone call.

5 Do you see that?

6 **MR. McCONNERY:** Yes, I do.

7 **MR. LEE:** If we can look, though, Madam
8 Clerk, at Exhibit 2638, this is the interview report of
9 Helene Jones, okay?

10 **MR. McCONNERY:** Yes.

11 **MR. LEE:** Do you see this?

12 And, Madam Clerk, if you can just scroll up
13 to show the witness the fact that the document is titled
14 "Interview Report".

15 And this is essentially the transcript of
16 the interview. Are you looking at this solely on the
17 screen or do you have the hardcopy as well, sir?

18 **MR. McCONNERY:** No, just on the screen, but
19 that's okay.

20 **MR. LEE:** Madam Clerk, if you can just make
21 it -- yeah, if you can just make it a little smaller, you
22 can see, sir -- I don't need you to read it -- you can see
23 that it's question and answer.

24 And flip to the next page, Madam Clerk.

25 Again, questions and answers and the final page -- and if

1 you can blow up the last section, Madam Clerk? The final
2 question:

3 "Would you like to read and sign your
4 statement?"

5 Answer:

6 "I would."

7 And it's signed.

8 Do you see that?

9 **MR. McCONNERY:** Yes.

10 **MR. LEE:** And that's the end of the
11 interview report because that's the end of the interview,
12 and the phone call afterwards isn't reflected in here.

13 Do you think it's possible that you read the
14 interview report only and not Dupuis' will state where he
15 detailed the telephone call?

16 **MR. McCONNERY:** Was -- can you assist me in
17 this regard? "Were Officer" -- is it Dupuis we're talking
18 about?

19 **MR. LEE:** Yes.

20 **MR. McCONNERY:** Were his notes contained in
21 the nine-volume brief?

22 **MR. LEE:** I ---

23 **MR. McCONNERY:** You don't know?

24 **MR. LEE:** I would be guessing.

25 **MR. McCONNERY:** If they were, I believe I

1 would have read them. There was a point where we asked for
2 Father -- sorry, for ---

3 (SHORT PAUSE/COURTE PAUSE)

4 MR. LEE: Ms. Robitaille is counsel for Mr.
5 Leduc and she tells me that there's a letter from Inspector
6 Hall to yourself that attaches the Dupuis will state and
7 his notes. So we can attempt to find that.

8 MR. McCONNERY: Okay.

9 MR. LEE: It appears to be Exhibit 2652,
10 Madam Clerk.

11 MR. McCONNERY: Is that the letter?

12 MR. LEE: Yes.

13 MR. McCONNERY: And what is the date of the
14 letter?

15 MR. LEE: July 4th, 2001. Madam Clerk will
16 pull it up here.

17 MR. McCONNERY: All right.

18 MR. LEE: As you can see, it's addressed to
19 the Regional Director to your attention.

20 MR. McCONNERY: Yes.

21 MR. LEE: "As per your request, please find
22 the following conspiracy to obstruct
23 justice volume 7, due in date, index,
24 will say notes of Detective Constable
25 Jules Dupuis."

1 **MR. McCONNERY:** Yes.

2 **MR. LEE:** Do you see that?

3 **MR. McCONNERY:** Yes.

4 **MR. LEE:** So it appears you may have. And
5 you were the one that posed the question. So I take it
6 what you're thinking is that if you had Officer Dupuis'
7 notes and it's reflected in Officer Dupuis' notes, you
8 would expect he would have read about it?

9 **MR. McCONNERY:** Yes, I would have and -- but
10 you know, maybe you don't always make the connections you
11 should make.

12 **MR. LEE:** Right.

13 **MR. McCONNERY:** You read the little
14 paragraph about a typewriter memory being erased and
15 whether or not I was able in my mind, without then getting
16 her statement and looking at it ---

17 **MR. LEE:** Right.

18 **MR. McCONNERY:** --- and say, "Oh, my God,
19 this is quite a revelation here."

20 I don't recall that. I'm not sure that I
21 remember now being concerned about the typewriter erasure.

22 **MR. LEE:** As Ms. Simms put to you yesterday,
23 it doesn't make its way into your factual analysis, and the
24 best you can tell us now is you don't have a recall of
25 having known it at the time. Is that fair?

1 **MR. McCONNERY:** Yes.

2 **MR. LEE:** And if we look at -- Madam Clerk,
3 I'm sorry but back to the last exhibit, which was 2651 and
4 page 50. This is the final page of the analysis part
5 before the Appendices where you outline scenario 3.

6 **MR. McCONNERY:** Yes.

7 **MR. LEE:** Eight-six-six-nine (8669); do you
8 see that?

9 **MR. McCONNERY:** Yes, I do, sir.

10 **MR. LEE:** And essentially, in this
11 paragraph, you set out the fact that Mr. Leduc is not
12 necessarily the person he was considered to be in '94, and
13 the fact that both, Leduc and Malcolm MacDonald,
14 subsequently being charged with sex offences put them both
15 in a different light. You recall that?

16 **MR. McCONNERY:** Yes, I do.

17 **MR. LEE:** You understood, I take it, that
18 neither Mr. Leduc nor Malcolm MacDonald were accused of
19 sexually abusing David Silmser.

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

21 **MR. LEE:** And I'm trying to get behind your
22 thinking. If they weren't accused of having abused the
23 person who was a party -- the victim who was a party of the
24 settlement, why was this relevant to you at that time or at
25 least potentially relevant to you at that time? Do you

1 recall?

2 **MR. McCONNERY:** I was examining an
3 allegation of a group of fairly prominent individuals in
4 Cornwall who had been described in the allegation as a clan
5 of pedophiles, and the issue was whether or not there had
6 been a conspiracy among those individuals basically to buy
7 off Mr. Silmsen's complaint. I'm being very basic about
8 it.

9 **MR. LEE:** M'hm.

10 **MR. McCONNERY:** And what occurred to me was
11 that you had an agreement drafted by lawyers that included
12 -- and I can't quote the item, but included and required
13 Mr. Silmsen to agree not to continue with his criminal
14 complaint and in my view that was an obstruct justice
15 potentially.

16 And so you look at all of the individuals
17 and in the information that was presented earlier, earlier
18 than my involvement, when a decision was made not to lay a
19 conspiracy and then eventually to charge Malcolm MacDonald
20 as the author of this agreement with obstruct justice but
21 no conspiracy charge. My reflection here is that whether
22 anything was known of the allegations about Malcolm
23 MacDonald's involvement with youths, ---

24 **MR. LEE:** Yes.

25 **MR. McCONNERY:** --- I was not aware, did not

1 believe that there were any suggestion Mr. Leduc was
2 involved. Mr. Leduc's name almost seemed to pop in and out
3 of Leroux' clan next door.

4 **MR. LEE:** And you recall, you've set that
5 out in your analysis, some of the ---

6 **MR. McCONNERY:** I think I did. I didn't
7 recall it until I was shown it yesterday.

8 **MR. LEE:** Yeah.

9 **MR. McCONNERY:** So all I was saying here was
10 if you now, with the benefit of hindsight, look at the
11 negotiations and if there was nothing about this meeting at
12 the island, et cetera, just Silmsen goes to the Church; he
13 eventually signs an agreement; Mr. Leduc may not have been
14 as well motivated in representing and protecting the
15 interests of whom -- his client -- because there may have
16 been an ulterior motivation -- was let's put a lid on this
17 whole thing.

18 That's where I was coming from.

19 **MR. LEE:** And that's what you're musing
20 about, I suppose, in scenario 3?

21 **MR. McCONNERY:** Musing?

22 **MR. LEE:** To yourself.

23 **MR. McCONNERY:** It's probably a light word,
24 but it was certainly a thought process that I went through.

25 **MR. LEE:** Okay.

1 **THE COMMISSIONER:** So in essence, what
2 you're saying is it was motive, that it brought into the
3 analysis something that wasn't present when they first made
4 the investigation but if they were both accused of sexual
5 assaults, as they were when you came in, you saw that as a
6 possible motive for them to want to hush any kind of sexual
7 abuse in Cornwall for fear that they may be exposed?

8 **MR. McCONNERY:** Yes.

9 **THE COMMISSIONER:** Is that?

10 **MR. McCONNERY:** Sure, absolutely.

11 **THE COMMISSIONER:** Okay.

12 **MR. LEE:** Just a matter of housekeeping, in
13 the middle of the page, you see a sentence that begins
14 "Unfortunately":

15 "Unfortunately, Malcolm MacDonald...
16 within weeks of that statement."

17 I take it we are just missing the word
18 "died" there?

19 "Unfortunately, Malcolm MacDonald
20 [died] within weeks of that statement."

21 **MR. McCONNERY:** Oh, yes, yes, yes. I see
22 that. That's correct.

23 **MR. LEE:** And you were asked. You were
24 shown Malcolm MacDonald's December 1999 statement -- for
25 the record, 3057. We don't need to go there.

1 And there was a question of various
2 inaudible portions in the statement. Do you recall that?

3 **MR. McCONNERY:** Yes.

4 **MR. LEE:** And you told us you cannot recall
5 whether or not you had asked Mr. Dupuis to help you out
6 filling in the gaps essentially?

7 **MR. McCONNERY:** Yes.

8 **MR. LEE:** Do you have any recollection of
9 having listened to the audio yourself?

10 **MR. McCONNERY:** I don't -- I don't have any
11 recollection. I'm not sure that I had sitting on my desk a
12 player so that I could throw in whatever I wanted and
13 listen to it.

14 **MR. LEE:** Right.

15 **MR. McCONNERY:** I likely would have sat with
16 one of the officers if I did it.

17 **MR. LEE:** You would have had to make some
18 arrangement to do so?

19 **MR. McCONNERY:** Right, I believe so. I
20 don't recall being handed over a whole bunch of videotapes
21 or audiotapes. It was, I think, a situation where if I
22 wanted them, they were brought to me.

23 **MR. LEE:** Right.

24 **MR. McCONNERY:** And likely I would have sat
25 with the officer, if you're telling me it was Dupuis, and

1 gone over it with him or Genier, but it was one of the
2 bilingual officers.

3 **MR. LEE:** Right.

4 **MR. McCONNERY:** No, I'm sorry, where am I
5 coming from on that? No, it just would have been one of
6 the officers.

7 **MR. LEE:** Whichever officer.

8 **MR. McCONNERY:** It wasn't a language issue.

9 **MR. LEE:** Do you have any recall of having
10 listened to the tape?

11 **MR. McCONNERY:** I do not.

12 **MR. LEE:** Okay. And finally, in relation to
13 this matter you write towards the bottom of your paragraph:

14 "By then, 1999, Mr. Leduc was before
15 the court on sexual assault charges,
16 and I understand the investigators were
17 advised not to attempt to re-interview
18 Leduc."

19 Do you see that?

20 **MR. McCONNERY:** I believe they told me that.

21 **MR. LEE:** And presumably not to try to re-
22 interview Leduc in relation to the settlement? That's what
23 you meant there?

24 **MR. McCONNERY:** Well, I took it that the
25 investigators said, you know, he's retained counsel; he's

1 got charges before the court. His lawyer has told us, you
2 know, don't speak to Mr. Leduc without -- my instructions
3 are not to have -- allow, sorry -- that the instructions
4 conveyed to the police were typically, "If you want to
5 speak to Mr. Leduc go through his lawyer. Mr. Leduc does
6 not want to be interviewed by the police."

7 I think it was something like that.

8 **MR. LEE:** And so your understanding at the
9 time is perhaps that we should have added to the end of
10 that sentence where the officers were advised not to
11 attempt to re-interview Leduc perhaps that -- without
12 consulting counsel first, or something along those lines.
13 That was your understanding?

14 **MR. McCONNERY:** Something like that.

15 **MR. LEE:** And you understood that there was
16 no direct relation between his involvement in the Silmsier
17 matter and the complainants before the courts?

18 **MR. McCONNERY:** The complainants?

19 **MR. McCONNERY:** It was two different
20 matters.

21 **MR. McCONNERY:** On his charges?

22 **MR. LEE:** The Silmsier situation was one
23 thing and the sexual assault charges against Leduc were
24 another thing entirely?

25 **MR. McCONNERY:** The brief involving Mr.

1 Leduc's charges, I have never ---

2 MR. LEE: So you really know nothing about
3 that?

4 MR. McCONNERY: I did not understand there
5 to be any relation, but I never read the Leduc brief.

6 MR. LEE: Okay. And were you involved at
7 all in the direction to the police that you speak of here,
8 that they should not attempt to re-interview Leduc or that
9 was something they advised you that had been ---

10 MR. McCONNERY: I think that was something
11 they told me. I certainly never said don't talk to Leduc.

12 MR. LEE: And you understood that by
13 December of 1999 when the Malcolm MacDonald interview was
14 conducted, which raises the \$25,000 issue, that Mr.
15 MacDonald was before the courts on sex assault charges?

16 I can tell you he was in March of '99.

17 MR. McCONNERY: Okay.

18 MR. LEE: Clearly you know by this time,
19 given the content of the paragraph, that Mr. MacDonald has
20 been investigated at ---

21 MR. McCONNERY: You're right. It's in the
22 statement.

23 You know, at first blush my first
24 recollection was that he died prior to the charges but I've
25 been corrected in that regard.

1 **MR. LEE:** So, clearly, you would agree that
2 it's not impossible for the police -- or it would not have
3 been impossible for the police to at least request an
4 interview of Mr. Leduc?

5 **MR. McCONNERY:** In my view, it would have
6 been quite appropriate for the police to go to attempt to
7 interview him. I think this was just a reflection that in
8 light of what had already taken place; that the likelihood
9 that Mr. Leduc would open his arms to them and say, "Come
10 on in fellows and interview me". He was on the record that
11 he would not talk to the police. I don't think a direction
12 from an accused or from the accused's lawyer would prohibit
13 the police from trying ---

14 **MR. LEE:** Right.

15 **MR. McCONNERY:** --- but realistically was it
16 going to result in anything, no, it wasn't. I think that's
17 what I meant.

18 **MR. LEE:** Did you ask the police to give it
19 a shot, do you recall?

20 **MR. McCONNERY:** No, I didn't. No, I didn't.

21 **MR. LEE:** Finally, sir -- just let me
22 rearrange a couple of binders here -- I have some questions
23 for you about one final matter relating to Albert Lalonde.
24 Mr. Lalonde is one of my clients, just for your
25 information.

1 **MR. McCONNERY:** Albert Lalonde?

2 **MR. LEE:** Yes.

3 **MR. McCONNERY:** Yes. Okay.

4 **MR. LEE:** You, with Mr. Horn and very
5 briefly with me at the beginning of my cross-examination,
6 were referenced to the fact that you provide an opinion to
7 Jeff Carroll on January 8th, 2003.

8 **MR. McCONNERY:** Yes.

9 **MR. LEE:** And we took a look at that and
10 it's the one that essentially says -- it's Exhibit 1704. I
11 can see you fishing for it there.

12 **MR. McCONNERY:** It's 1704?

13 **MR. LEE:** Yeah, 1704.

14 **MR. McCONNERY:** Yes, I have it.

15 **MR. LEE:** And that's the one I asked you
16 about ---

17 **MR. McCONNERY:** Yes.

18 **MR. LEE:** --- earlier, and your ultimate
19 opinion is you feel Detective Sergeant Carroll's concerns
20 are very well-founded.

21 Do you, sitting here today, have any
22 independent recollection of what you reviewed or what
23 issues you considered or what concerns you had?

24 **MR. McCONNERY:** Cross-examination helps your
25 memory quite substantially.

1 I recall there was an incident at a park.

2 **MR. LEE:** Yes.

3 **MR. McCONNERY:** I recall ---

4 **MR. LEE:** Avonmore Park; does that ring a
5 bell to you?

6 **MR. McCONNERY:** It doesn't.

7 I recall, because somebody made a reference
8 to it, an incident of his watching TV and making some
9 declaration.

10 I recall that there were medical records,
11 and when I saw at least one of the letters here I
12 remembered the name, I think it was Dr. Richter or Richter.

13 **MR. LEE:** Richter, yes.

14 **MR. McCONNERY:** Richter.

15 I don't recall what problems I particularly
16 saw back then.

17 I recall getting the Carroll brief and
18 asking for it or being told that the OPP would send me
19 their brief.

20 **MR. LEE:** Right.

21 **MR. McCONNERY:** I think I actually got it
22 fairly quickly from them.

23 And I remember -- maybe this is somewhat my
24 style occasionally -- I remember reading them and then
25 putting them on the corner of my desk and they may have sat

1 there too long.

2 **MR. LEE:** It's not an issue I'm going to
3 canvass with you.

4 You told Mr. Horn earlier that the police
5 lay charges if they have reasonable and probable grounds to
6 believe that an offence has been committed?

7 **MR. McCONNERY:** Yes.

8 **MR. LEE:** And you followed that up by saying
9 that your assessment -- these are my words -- but your
10 assessment of RPG when asked to give an opinion is based on
11 the fruits of an investigation?

12 **MR. McCONNERY:** Yes.

13 **MR. LEE:** You look at what the police give
14 you?

15 **MR. McCONNERY:** Yes.

16 **MR. LEE:** And what you told Mr. Horn is, "I
17 read everything they gave me"?

18 **MR. McCONNERY:** Yes.

19 **MR. LEE:** And that would be your usual
20 practice I take it?

21 **MR. McCONNERY:** Yes.

22 **MR. LEE:** And the subjective belief of an
23 officer, for lack of a better phrase, is what it is and
24 often times there's not a heck of a lot you can do about
25 somebody's subjective belief. Would you agree with that?

1 **MR. McCONNERY:** Generally speaking.

2 **MR. LEE:** As a ---

3 **MR. McCONNERY:** As a general statement, yes,
4 and practically speaking, yes.

5 **MR. LEE:** As a Crown, by way of example, you
6 can suggest other charges that may be appropriate, other
7 sections of the Code as an example, as you outlined
8 earlier. You can suggest further investigation. You can
9 ensure -- you can satisfy yourself that the officer's
10 turned his mind to various issues but, at the end of the
11 day, a subjective belief of an officer isn't something that
12 you can change and isn't something you can do much about.
13 Is that fair?

14 **MR. McCONNERY:** Right. If an officer tells
15 -- makes that kind of a comment to me I might, having read
16 a brief, I might say, "Don't you find such-and-such very
17 compelling when he's supportive and doesn't that help you
18 get over the hurdle of the subjective belief?" But I
19 wouldn't tell him, "This evidence I find supports it and
20 therefore you do have reasonable and probable grounds".

21 **MR. LEE:** And ---

22 **MR. McCONNERY:** Still his call.

23 **MR. LEE:** I take it, ideally, and what we
24 would hope to see, is that the assessment of RPG, the
25 subjective component included, and if it comes up, a

1 Crown's assessment of the materials is going to be based on
2 a full and thorough investigation and an honest assessment
3 of all of the facts available?

4 **MR. McCONNERY:** Yes, I would certainly hope
5 so.

6 **MR. LEE:** And part of what you're to do as a
7 Crown is to assess in some way the sufficiency of the
8 investigation. Is that correct?

9 **MR. McCONNERY:** Sometimes that's an issue.

10 **MR. LEE:** If it becomes apparent to you that
11 not all leads have been followed, as an example, it's
12 rather difficult to come to a conclusion on RPG and give an
13 opinion, isn't it?

14 **MR. McCONNERY:** Yes, and I think in that
15 circumstance I would take as part of the request to review
16 something as a request for advice, direction, any helpful
17 assistance I can give in that regard.

18 Now, sometimes what you're being asked to
19 review and not being told "Take three months and do nothing
20 else and review this" but sometimes you're asked to review
21 a homicide and you know you don't have everything ---

22 **MR. LEE:** Right.

23 **MR. McCONNERY:** --- because -- I mean, if
24 that -- on every homicide that's laid, if I was asked to do
25 a thorough review of every document and every step of the

1 investigation, I might be able to review six of them in a
2 year and do nothing else.

3 **MR. LEE:** Right.

4 **MR. McCONNERY:** So, yeah, sometimes I review
5 it based upon what the police provide me and whether or not
6 I'm comfortable that they feel there's reasonable and
7 probable grounds to lay the charge.

8 The police will usually consult us before
9 laying a homicide charge.

10 **MR. LEE:** And you certainly, in a number of
11 these opinions that we've looked at, go to some pains to
12 set out exactly what it is you've reviewed?

13 **MR. McCONNERY:** Yes.

14 **MR. LEE:** And I take it part of the reason
15 you do that is so it's very clear to the reader that your
16 opinion is based on what you had and if new information
17 comes to light, it may change your opinion?

18 **MR. McCONNERY:** Yes.

19 **MR. LEE:** Is that right?

20 **MR. McCONNERY:** Yes.

21 **MR. LEE:** Are you aware that Jeff Carroll
22 testified here?

23 **MR. McCONNERY:** Yes.

24 One of the things I can tell you is that I
25 was provided by Mr. Kloeze a brief basically that said

1 "Here's where your name came up and, you know, you should
2 look at this".

3 MR. LEE: Right.

4 MR. McCONNERY: I didn't think he was doing
5 anything inappropriate.

6 MR. LEE: No.

7 MR. McCONNERY: And I looked at that and it
8 helped me to sort of consider some issues.

9 MR. LEE: Do you recall whether or not you
10 read Jeff Carroll's -- the transcripts relating to Jeff
11 Carroll's testimony about his Albert Lalonde investigation?

12 MR. McCONNERY: Yes, I did, but it was an
13 excerpt.

14 MR. LEE: Okay.

15 MR. McCONNERY: It was an excerpt. What I
16 read was the part where he said something about me.

17 MR. LEE: Okay. I understand.

18 I'm going to summarize a few parts of Mr.
19 Carroll's testimony, and I simply want you to let me know
20 whether or not that was something you appreciated at the
21 time you were doing your opinion. And I presume you may
22 well tell me at various times you just can't remember, and
23 if that's the answer, that's the answer.

24 MR. McCONNERY: Okay.

25 MR. LEE: Officer Carroll, when he was here,

1 told us that he knew virtually nothing of the David Silmser
2 investigation conducted by his force; that he hadn't
3 reviewed the CPS file on that investigation; hadn't
4 reviewed the officer's notes or anything along those lines
5 as he was investigating Albert Lalonde's allegations.

6 Were you aware of that, at the time when

7 ---

8 **MR. McCONNERY:** No, I don't think I was
9 aware of that. I'm not sure that it would have been a
10 concern for me.

11 **MR. LEE:** Sorry, I missed the last part.

12 **MR. McCONNERY:** I'm not sure why I would
13 have had a concern or wanted to know about that.

14 **MR. LEE:** And are you aware that Officer
15 Carroll had not --- had no information relating to -- or I
16 should say virtually no information relating to the OPP
17 investigations of allegations relating to Charles
18 MacDonald.

19 **MR. McCONNERY:** This is sort of very
20 general. In my view, my recollection now is that Carroll
21 was sort of a fresh face ---

22 **MR. LEE:** Yes.

23 **MR. McCONNERY:** --- to it.

24 **MR. LEE:** Yes, that's fair.

25 **MR. McCONNERY:** Okay.

1 **MR. LEE:** And speaking -- move away from
2 Sergeant Carroll's testimony for a moment -- do you have
3 any concerns that an officer investigating a new allegation
4 against Father Charles MacDonald with all of the water
5 that's gone under the bridge, ought to be aware of what's
6 gone on previously and who he's dealing with in terms of
7 the accused?

8 **MR. McCONNERY:** You'd have to be brain dead
9 to be in Cornwall and not know what was going on with
10 Father MacDonald.

11 **MR. LEE:** I'm asking you about ---

12 **MR. McCONNERY:** I didn't think Sergeant --
13 is it Sergeant Carroll?

14 **MR. LEE:** Detective Sergeant, I think.

15 **MR. McCONNERY:** I didn't think he was blind
16 to everything what was gone on, but I thought he brought a
17 fresh set of eyes to it from an investigative point-of-
18 view, and whether or not he was fully apprised of all the
19 other investigator's steps, no. Did he know about Father
20 MacDonald? How could he not.

21 **MR. LEE:** Do you think he ought to have
22 taken steps to look at the other investigations, speak with
23 the investigators and glean what he could about what had
24 already gone on?

25 **MR. McCONNERY:** I wasn't critical that he

1 didn't do that if he didn't do it. I felt the case merited
2 a look on its own.

3 **MR. LEE:** Clearly, the allegations by
4 Lalonde have to be assessed on their own. They have to be
5 assessed on their own merits.

6 **MR. McCONNERY:** They do.

7 **MR. LEE:** They don't exist in isolation, do
8 they?

9 **MR. McCONNERY:** No.

10 **MR. LEE:** And it would be quite proper, if
11 Detective Sergeant Carroll were so inclined, for him to
12 learn what he could about other allegations of Charles
13 MacDonald and what had happened there?

14 **THE COMMISSIONER:** Yes, sir?

15 **MR. MANDERVILLE:** I don't want to interrupt
16 my friend's flow of his examination too much. I'm sure
17 he's next going to advise the witness of the fact that
18 Officer Carroll went out and met with the OPP concerning
19 the very issues, at some length. I'm sure that was his
20 next area.

21 **MR. LEE:** I think it's rather clear, Mr.
22 Commissioner, from Jeff Carroll's evidence, and we have the
23 transcripts, that he did not have anywhere close to a full
24 appreciation of what had gone on in the past relating to
25 Charles MacDonald.

1 **MR. McCONNERY:** Can I say this in answer to
2 what I perceive to be your question?

3 I think I turn my mind to that somewhat
4 because part of my letter reads:

5 "In reviewing your brief, the OPP brief
6 and the voluminous Project Truth briefs
7 involving allegations against Father
8 MacDonald by Albert Lalonde..."

9 I think he had a lot of the Project Truth
10 and I'm going to say that the umbrella Project Truth in my
11 view covered everything. When I say Project Truth I'm not
12 saying "from the Fantino briefs forward", I'm saying
13 everything that was laid in the investigations against
14 MacDonald, against others, dating back -- I can't even tell
15 you the dates of the first charges.

16 But when I use the expression "Project
17 Truth", I feel it encompasses everything that had been
18 investigated in relation to these multiple allegations in
19 Cornwall; I'm not just saying Project Truth which started,
20 I think, actually in '96.

21 **MR. LEE:** Or '97, I think.

22 **MR. McCONNERY:** '97. You know, I'm not
23 saying Project Truth goes from there forward. To me, I
24 just -- generally speaking, Project Truth was everything,
25 okay?

1 So I reviewed -- I think what I'm trying to
2 say here is I have in mind the Project Truth investigations
3 as well, although I do see that what I said was the Project
4 Truth briefs involving allegations by Lalonde.

5 **MR. LEE:** Read my mind, sir, yeah.

6 **MR. McCONNERY:** And so ---

7 **MR. LEE:** Do you have any independent
8 recollection of exactly what you reviewed in relation to
9 this matter?

10 **MR. McCONNERY:** Yes. Yes, I reviewed the
11 Cornwall Police investigation from 2002.

12 **MR. LEE:** Of Lalonde's -- the Jeff Carroll
13 investigation.

14 **MR. McCONNERY:** Of Lalonde and the earlier
15 OPP investigation.

16 **MR. LEE:** Of Albert Lalonde's allegations?

17 **MR. McCONNERY:** Right, but I felt that there
18 was some material in the Project Truth broader briefs that
19 touched on it but I can't tell you what now. And it wasn't
20 that I necessarily went back and pulled them all out. I've
21 read them all.

22 **MR. LEE:** Right, right.

23 When Mr. Carroll was here, he was taken to
24 his evidence the fact that Mr. Lalonde had mentioned
25 speaking to four doctors and that two of those had been

1 interviewed by police. Do you recall that at all?

2 **MR. McCONNERY:** No.

3 **MR. LEE:** Do you recall that Mr. Lalonde had
4 made other allegations that were investigated by police
5 against a man named St. Jean and that a conviction had been
6 secured?

7 **MR. McCONNERY:** I remember his brother
8 telling me about that.

9 **MR. LEE:** When his brother came to you ---

10 **MR. McCONNERY:** Yes.

11 **MR. LEE:** --- following the ---

12 **MR. McCONNERY:** Yes.

13 **MR. LEE:** And when I mentioned a moment ago
14 that four -- or that two doctors had been interviewed,
15 Officer Carroll had interviewed Clement and Joe Dupuis had
16 interviewed Richter, Joe Dupuis with the OPP, and they
17 swapped information.

18 **MR. McCONNERY:** Okay.

19 **MR. LEE:** And we know that Officer Carroll
20 never secured a copy of Dr. Clement's file. Do you recall
21 that?

22 **MR. McCONNERY:** Who didn't get it?

23 **MR. LEE:** Carroll, Jeff Carroll. He was the
24 one who interviewed Clement and Clement had concerns about
25 privacy and wasn't comfortable providing a copy of the

1 file.

2 MR. McCONNERY: I can't say that I recall
3 that now.

4 MR. LEE: And Mr. Neville referred to the
5 Clement document a moment ago, and it's Exhibit 1699.

6 MR. McCONNERY: Okay.

7 MR. LEE: Mr. Commissioner, this is my last
8 issue and perhaps if we can five minutes into the lunchtime
9 ---

10 THE COMMISSIONER: Sure.

11 MR. LEE: --- I should be able to finish.

12 And Mr. Neville specifically when he rose
13 referred you to the last page -- at the very bottom, Madam
14 Clerk -- or made reference to it at least, rather. Next
15 page, please, Madam Clerk, at the very bottom.

16 And you can see, Dr. Clement was clear that:

17 "There was no identifiable disclosures
18 of specific sexual abuse suffered by
19 Lalonde where an offender was
20 identified by him, other than the case
21 of Raymond St. Jean. Dr. Clement
22 rendered an opinion as to Lalonde's
23 credibility by stating that there
24 simply was none, given the history
25 described above."

1 Do you see that?

2 **MR. McCONNERY:** Yes, I do.

3 **MR. LEE:** And Mr. Neville suggested that
4 says it all when he rose.

5 Were you aware, sir, that Dr. Clement was a
6 family doctor?

7 **MR. McCONNERY:** I'm sure I was then, yes.

8 **THE COMMISSIONER:** Mr. Neville?

9 **MR. NEVILLE:** Commissioner, I hate to take
10 credit for what you said but I think those are your words,
11 not mine.

12 **THE COMMISSIONER:** No, I didn't say that
13 says it all.

14 **MR. NEVILLE:** You referred to the last ---

15 **THE COMMISSIONER:** I referred to the thing
16 and you said that does it all -- says it all.

17 **MR. LEE:** Sorry. I asked you whether you
18 were aware that Dr. Clement was a family doctor?

19 **MR. McCONNERY:** I don't recall that now. I
20 was likely aware of it then.

21 **MR. LEE:** Do you recall knowing that by the
22 time of Officer Carroll's investigation -- sorry -- that
23 Dr. Clement had not seen Albert Lalonde in a number of
24 years?

25 **MR. McCONNERY:** No, I don't recall that.

1 **MR. LEE:** Are you aware that Albert
2 Lalonde's school records were not secured as part of the
3 investigation?

4 **MR. McCONNERY:** You have me at a real
5 disadvantage. I reviewed briefs. I'm not being allowed to
6 look at the briefs and I don't know. Now, I can't detail
7 for you what was in the briefs.

8 **MR. LEE:** Well, I'm telling you that we have
9 evidence from Jeff Carroll that he didn't get the school
10 records.

11 **MR. McCONNERY:** Okay. Then I ---

12 **MR. LEE:** So what I'm ---

13 **MR. McCONNERY:** Then I accept that.

14 **MR. LEE:** I suppose the point of it, sir,
15 and perhaps if I can cut this off ---

16 **MR. McCONNERY:** But you know, I don't recall
17 the significance of the school records. You know, I don't
18 recall if it was something that I should have been alerted
19 to ask the officer to get if they were missing. I don't
20 recall the significance of school records.

21 **MR. LEE:** Let me do it this way, given the
22 concerns you've just rightly set out about the value of
23 this process.

24 Going back to where I started this part of
25 the cross-examination, you base your opinion on what you're

1 provided by the police?

2 MR. McCONNERY: Yes.

3 MR. LEE: And your opinion is based solely
4 on those materials?

5 MR. McCONNERY: Yes. I don't remember any
6 extraneous information that I would have looked at.

7 MR. LEE: You certainly didn't do your own
8 investigation?

9 MR. McCONNERY: No, I didn't.

10 MR. LEE: Certainly didn't interview
11 witnesses?

12 MR. McCONNERY: I did not.

13 MR. LEE: You didn't give Mr. Lalonde a call
14 and have a chat with him?

15 MR. McCONNERY: No, I didn't.

16 MR. LEE: You looked at the brief. You gave
17 an opinion on what you had before you?

18 MR. McCONNERY: Yes, but I think I did ask -
19 --

20 MR. LEE: You looked at the materials. No,
21 in the end ---

22 MR. McCONNERY: Yeah.

23 MR. LEE: --- the final analysis when you're
24 satisfied you have what you need?

25 MR. McCONNERY: I looked at what I'm given.

1 **MR. LEE:** You look at what you're given and
2 that's what you base your opinion on?

3 **MR. McCONNERY:** Sure.

4 **MR. LEE:** Thank you, sir. Those are my
5 questions.

6 **THE COMMISSIONER:** Thank you.

7 Let's have lunch.

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

10 This hearing will resume at 2:00 p.m.

11 --- Upon recessing at 12:26 p.m./

12 L'audience est suspendue à 12h26

13 --- Upon resuming at 2:07 p.m./

14 L'audience est reprise à 14h07

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

17 This hearing is now resumed. Please be
18 seated. Veuillez vous asseoir.

19 **LORNE McCONNERY, Resumed/Sous le même serment:**

20 **THE COMMISSIONER:** Mr. Neville?

21 **MR. NEVILLE:** Good afternoon, Commissioner.

22 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

23 **NEVILLE:**

24 **MR. NEVILLE:** Good afternoon, Mr. McConnery.

25 **MR. McCONNERY:** Mr. Neville.

1 **MR. NEVILLE:** We obviously don't need
2 introductions to each other.

3 **MR. McCONNERY:** No.

4 **MR. NEVILLE:** Just so you know, in addition
5 to my representing Father MacDonald, I also represent at
6 the Inquiry the Estate of Ken Seguin and some members of
7 his family. It's not terribly relevant to our matters
8 today.

9 **MR. McCONNERY:** Okay.

10 **MR. NEVILLE:** I wanted to start with some
11 questions dealing with the 11(b) motion and perhaps assist
12 in completing the record and your testimony about this
13 question of waiver and what you came across as documentary
14 and other evidence on the topic. All right?

15 **MR. McCONNERY:** Yes.

16 **MR. NEVILLE:** And could we start with
17 Exhibit 3042, which is I think, in chronological terms,
18 your first set of notes when you started into this mountain
19 as you call it?

20 **MR. McCONNERY:** I believe so.

21 **MR. NEVILLE:** All right.

22 Do you have that, Commissioner?

23 **THE COMMISSIONER:** I'm sorry -- 3042?

24 **MR. NEVILLE:** Yes.

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

1 **MR. NEVILLE:** And starting at the first
2 page, it appears to be a meeting, if I take it correctly,
3 of yourself -- and does that mean at the top left corner
4 Detective Inspector Hall and Detective Joe Dupuis?

5 **MR. McCONNERY:** Correct.

6 **MR. NEVILLE:** And Mr. Hall -- Inspector Hall
7 testified here a few weeks ago and had a recollection of
8 this meeting and wasn't sure whether the question of delay
9 or 11(b) came up. Can you confirm for me, at least looking
10 at the notes for May 3rd, that the topic does not appear to
11 be reflected in these notes?

12 **MR. McCONNERY:** I believe it's just the
13 first three pages. And, no, it is not reflected in those
14 notes.

15 **MR. NEVILLE:** All right. And would that
16 mean that in all likelihood it didn't come up as a specific
17 topic at this meeting?

18 **MR. McCONNERY:** Yes, I would say that's
19 correct.

20 **MR. NEVILLE:** Okay. But you have told the
21 Commissioner that, essentially, when you get here or --
22 yes, it is here actually -- you are well aware from
23 whatever sources that this was a live issue and would have
24 to be faced at some point?

25 **MR. McCONNERY:** Yes.

1 **THE COMMISSIONER:** I'm sorry; the live issue
2 being the ---

3 **MR. NEVILLE:** The Section 11(b), sir.

4 **THE COMMISSIONER:** Oh, yeah.

5 **MR. NEVILLE:** All right.

6 Can we look then next briefly at Document --
7 I believe it's a new document, Commissioner -- 130378?

8 And while you're there, Madam Clerk, perhaps
9 I'll give you a series of them that you should have,
10 378381, 383 and 384 -- 384 is now our Exhibit 3058. So
11 378381 and 383.

12 And these again, Mr. McConnery, are some of
13 your notes.

14 **MR. McCONNERY:** Okay.

15 **THE COMMISSIONER:** Sir, you said at the
16 beginning that this was with respect to any possible
17 waiver?

18 **MR. NEVILLE:** The topic of waiver.

19 **THE COMMISSIONER:** I don't know that
20 anything much turns on it really.

21 **MR. NEVILLE:** Well, at one point it did.

22 **THE COMMISSIONER:** At one point it did, but
23 for the purposes of this Inquiry ---

24 **MR. NEVILLE:** Well, I have reasons.

25 **THE COMMISSIONER:** Go ahead. Go ahead.

1 **MR. NEVILLE:** And my main thrust eventually
2 and hopefully quickly, sir, is to have the record complete
3 with the documents Mr. McConnery I'm sure had in mind.

4 **THE COMMISSIONER:** Okay.

5 **MR. NEVILLE:** Do you have those?

6 **MR. McCONNERY:** No, sorry.

7 **(SHORT PAUSE/COURTE PAUSE)**

8 **THE COMMISSIONER:** Thank you.

9 Exhibit Number 3084 is notes -- these are
10 your notes, sir?

11 **MR. McCONNERY:** Yes, they are.

12 **THE COMMISSIONER:** All right.

13 Well, I don't have a date so we'll put
14 Document Number 130378.

15 **---EXHIBIT NO./PIÈCE NO. P-3084:**

16 (130378) - Notes of Lorne McConnery, undated

17 **MR. NEVILLE:** May I ask, Commissioner, which
18 one you were just speaking of?

19 **THE COMMISSIONER:** It says "Trial set for
20 March 18th, 2002".

21 **MR. NEVILLE:** Yes. So that's 3078?

22 **THE COMMISSIONER:** No, that's 3084.

23 **MR. NEVILLE:** Oh, it is? Okay. Sorry. My
24 apologies. Thank you.

25 **THE COMMISSIONER:** And 3085 is again notes

1 with a date of January 24th, 2002.

2 ---EXHIBIT NO./PIÈCE NO. P-3085:

3 (130381) - Notes of Lorne McConnery dated
4 January 24, 2002

5 **THE COMMISSIONER:** And the last one, which
6 is 3086, is a document with a date of February 6th, 2002 on
7 it.

8 ---EXHIBIT NO./PIÈCE NO. P-3086:

9 (130383) - Notes of Lorne McConnery dated
10 February 6, 2002

11 **MR. NEVILLE:** And if you also have there
12 available to you, Mr. McConnery, our Exhibit 3058, which is
13 Document Number 130384.

14 And it appears to be a rough copy, more-or-
15 less, of what is -- sorry -- 3086, one of the new exhibits,
16 appears to be rough copy of what is already 3058. Same
17 date. Fair enough?

18 **MR. McCONNERY:** I think one of these is --
19 that's why I wish I had my notes in my hand.

20 **MR. NEVILLE:** Right.

21 **MR. McCONNERY:** It seems to me they're
22 probably just pages that followed each other in my
23 notebook.

24 **MR. NEVILLE:** Okay. Fair enough. I don't
25 want to spend a whole lot of time on them.

1 **MR. McCONNERY:** Sure. That's fine.

2 **MR. NEVILLE:** Just to look at -- first let's
3 talk to 3084.

4 **MR. McCONNERY:** Three-zero-eight-four
5 (3084), yes.

6 **MR. NEVILLE:** One-three-zero-three-seven-
7 eight (130378). And this appears to be a sort of a to-do
8 list of topics that are relevant to the upcoming trial.

9 **MR. McCONNERY:** Yes.

10 **MR. NEVILLE:** And if you look down, you'll
11 see Items 7 and 11 clearly relate to the delay section.

12 **MR. McCONNERY:** Yes.

13 **MR. NEVILLE:** All right.

14 So let's look at 3085.

15 **MR. McCONNERY:** Yes.

16 **MR. NEVILLE:** Now, this appears to be notes
17 of a meeting on January 24th, 2002 with yourself and
18 Detectives Dupuis and Hall and the secretary, Marion Burns,
19 yourself and Mr. Phillips?

20 **MR. McCONNERY:** Yes, that's correct.

21 **MR. NEVILLE:** And it has to do with various
22 witnesses, potential witnesses, for the named complainants,
23 and we won't refer to the names for the moment.

24 I guess there should be a publication ban,
25 Commissioner.

1 **THE COMMISSIONER:** On all documents.

2 **MR. NEVILLE:** Right? And this particular
3 set of notes, although Officer Dupuis and Hall are both
4 there, doesn't seem to address as a topic in your notes the
5 11(b) issue.

6 **MR. McCONNERY:** No, I think this is a
7 meeting to address the issue if subpoenas hadn't already
8 gone out for the trial proper.

9 And my practice, Mr. Neville, is always that
10 whether or not I intend to call a witness, if I want to
11 interview the witness I'll probably throw their name on the
12 witness list and ---

13 **MR. NEVILLE:** Fair enough.

14 **MR. McCONNERY:** --- make a subsequent
15 decision as to whether or not I call ---

16 **MR. NEVILLE:** Okay.

17 **MR. McCONNERY:** --- a witness.

18 **MR. NEVILLE:** Can we look then at what is
19 now Exhibit 3058, 130384?

20 **MR. McCONNERY:** Yes.

21 **MR. NEVILLE:** This is a meeting involving
22 Detective Dupuis on the 6th of February, 2002 and it seems
23 to relate primarily to providing transcripts and other
24 things to named complainants?

25 **MR. McCONNERY:** Yes.

1 **MR. NEVILLE:** Correct?

2 **MR. McCONNERY:** Yes.

3 **MR. NEVILLE:** Okay. And you can see at the
4 bottom you and I speak at about 12:45?

5 **MR. McCONNERY:** Yes.

6 **MR. NEVILLE:** And there's discussions about
7 whether certain complainants ought to remain part of the
8 indictment?

9 **MR. McCONNERY:** That's correct.

10 **MR. NEVILLE:** And if we turn to the next
11 page, the bottom half, there's specific discussion of pre-
12 trial motions, including Section 11(b), right?

13 **MR. McCONNERY:** Yes.

14 **MR. NEVILLE:** And you have a note that
15 you're advised, at the bottom of that page, from Ms.
16 Leblanc, the local -- that is Cornwall trial coordinator,
17 that the upcoming trial judge at that point was Justice
18 Charbonneau?

19 **MR. McCONNERY:** Correct.

20 **MR. NEVILLE:** Now, can you look briefly for
21 me at what is now Exhibit 3086, Document 130383?

22 **MR. McCONNERY:** Yes.

23 **MR. NEVILLE:** Does this not appear to be a
24 rough copy of what we just looked at? The times seem to
25 match. The topic seems to match. Is that not what it is?

1 **MR. McCONNERY:** I can't ---

2 **MR. NEVILLE:** The world doesn't turn on it,
3 but it looks like the same date and the same topic.

4 **MR. McCONNERY:** It certainly does. It's
5 just an odd way for me to have made the note and then made
6 a better note.

7 **(OFF-RECORD DISCUSSION/DISCUSSION HORS ENREGISTREMENT)**

8 **MR. KLOEZE:** Sorry, Mr. Commissioner. To
9 assist the witness, I think he has -- he mentioned it would
10 be more helpful for him to see his actual notes. I can
11 advise that this Exhibit 3086, based on the Bates page
12 numbers, are the pages immediately preceding the Exhibit
13 3058 and so the 3058 would be immediately after this
14 Exhibit 3086 in his notebooks.

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

16 **MR. NEVILLE:** All right.

17 Can we confirm this, Mr. McConnery, all of
18 the writing is your writing?

19 **MR. McCONNERY:** Yes, it is.

20 **MR. NEVILLE:** All right. That's fine.

21 And just so you know as well, Commissioner,
22 most of us -- all of us, I guess, got many of these
23 documents in the format they are, with these numbers, just
24 last week. So how the document numbers were placed we
25 don't know. This is how they came, so whether they should

1 have been together; they came as two different ones.

2 **THE COMMISSIONER:** I understand that the
3 Attorney General just recently gave them to Commission
4 counsel.

5 **MR. NEVILLE:** Yes, sir, that's right.
6 That's right.

7 **THE COMMISSIONER:** Can't help you there.

8 **MR. NEVILLE:** No. I know that.

9 **MR. McCONNERY:** And that was my fault.

10 **MR. NEVILLE:** Pardon me?

11 **MR. McCONNERY:** That was my fault. I had
12 the notes, and I didn't realise it should have been ---

13 **MR. NEVILLE:** Fair enough.

14 Just touching quickly, Mr. McConnery, on
15 that last two sets of notes, clearly the topic of 11(b) has
16 come up in various components, as discussed between us,
17 right?

18 **MR. McCONNERY:** Yes.

19 **MR. NEVILLE:** All right.

20 Now, can I refer you next to -- it's our
21 Exhibit now, 2789?

22 **MR. McCONNERY:** Okay.

23 **MR. NEVILLE:** Do you have it?

24 **MR. McCONNERY:** No, I don't.

25 **MR. NEVILLE:** And the Document Number,

1 Commissioner, is 701328.

2 THE COMMISSIONER: Three-eight-seven-nine
3 (3879)?

4 MR. NEVILLE: Two-seven-eight-nine (2789).

5 THE COMMISSIONER: Sorry.

6 MR. NEVILLE: Do you have it there, Mr.
7 McConnery?

8 MR. McCONNERY: Yes, I do.

9 MR. NEVILLE: You will see that this is a
10 report that's been described for us by Inspector Hall,
11 authored by him on the 19th of February shortly after the
12 last set of exhibits, and you'll see the fourth paragraph,
13 he's reporting to CIB Headquarters, and the fourth
14 paragraph starts with the trial of Father Charles MacDonald
15 and indicates that there is going to be motions including
16 Section 11(b).

17 MR. McCONNERY: Yes. I don't think this is
18 a document I was ever privy to though.

19 MR. NEVILLE: No. No, I'm not suggesting it
20 is.

21 MR. McCONNERY: No.

22 MR. NEVILLE: I'm suggesting to you that,
23 based on the specific discussions, which appears to be the
24 first set of notes specifically addressing 11(b), his
25 knowledge, and that is February 6th, would appear to likely

1 come from that set of notes and discussions to author this
2 document. That appears to be the sequence?

3 **MR. McCONNERY:** Without having all of my
4 notes in front of me, I would have said from possibly the
5 first time you and I met personally.

6 **MR. NEVILLE:** Okay.

7 **MR. McCONNERY:** Or talked about it.

8 **MR. NEVILLE:** Well, sir, that would take us
9 back in the summer of '01.

10 **MR. McCONNERY:** That we talked about 11(b).

11 **MR. NEVILLE:** Fair enough.

12 **MR. McCONNERY:** Because I remembered at that
13 time the whole Lanark issue was very much topical to us.

14 **MR. NEVILLE:** Right. Fair enough; all
15 right.

16 So let's look next briefly at the new
17 exhibit, Document Number, Commissioner, is 130416, and I
18 believe this is a new document.

19 You had mentioned earlier, just while we're
20 getting it, Mr. McConnery, that you felt you might have
21 notes showing where you addressed the topic of 11(b) and
22 potential witnesses you might need to call or evidence to
23 produce?

24 **MR. McCONNERY:** Yes.

25 **MR. NEVILLE:** And I'm going to have you look

1 at this because that appears to be, if I'm not mistaken,
2 what this is about.

3 **MR. McCONNERY:** Okay.

4 **THE COMMISSIONER:** Thank you.

5 Exhibit 3087 is notes of Mr. McConnery dated
6 March 19th, 2002.

7 **--- EXHIBIT NO./PIÈCE NO P-3087:**

8 (130416) - Notes of Lorne McConnery dated
9 March 19, 2002

10 **MR. NEVILLE:** Do you have those there, sir?

11 **MR. McCONNERY:** Yes, I do.

12 **MR. NEVILLE:** And if you want to just take a
13 moment to look at them. My suggestion is that that appears
14 to be the essence of what you're recording here and,
15 specifically, a meeting with Inspector Hall.

16 Oh, again, publication ban, Commissioner.
17 There are names.

18 **THE COMMISSIONER:** Yes.

19 **MR. NEVILLE:** Do you see on the first page,
20 Mr. McConnery?

21 **MR. McCONNERY:** Oh, yes. Yes. It certainly
22 has to do with preparations.

23 **MR. NEVILLE:** Right.

24 **MR. McCONNERY:** Discussions regarding what
25 witnesses we might need to -- to deal with some of the

1 issues.

2 MR. NEVILLE: Within the 11(b) context.

3 MR. McCONNERY: Within the 11(b).

4 MR. NEVILLE: And who might be potential
5 witnesses.

6 So you're talking, for example, a possible
7 affidavit from the Lanark Crown about that homicide trial?

8 MR. McCONNERY: Yes.

9 MR. NEVILLE: Or the sergeant who was in
10 charge of that file, Officer Ray?

11 MR. McCONNERY: Yes.

12 MR. NEVILLE: And then possibly Pat Hall as
13 a witness?

14 MR. McCONNERY: Correct.

15 MR. NEVILLE: I gather to talk perhaps, as
16 you put it in Item 3, the first preliminary hearing going
17 off the rails or have somebody to explain it?

18 MR. McCONNERY: Yes.

19 MR. NEVILLE: Okay?

20 MR. McCONNERY: Yes.

21 MR. NEVILLE: And then bottom half:

22 "Mr. Hall to cover in areas about C-8
23 coming forward and C-2"?

24 MR. McCONNERY: Yes.

25 MR. NEVILLE: And then possible other

1 witnesses, Officers Fagan and Smith?

2 MR. McCONNERY: Correct.

3 MR. NEVILLE: Okay.

4 MR. McCONNERY: Yes, they have question
5 marks there but, yes, whether ---

6 MR. NEVILLE: No, I understand.

7 MR. McCONNERY: --- whether or not we needed
8 them, yes.

9 MR. NEVILLE: Fair enough.

10 Now, I note here, if you look through, if
11 you have -- take a moment, and there's reference on page 2
12 about the Lanark trial, the 10,000 pages in the boxes, et
13 cetera.

14 MR. McCONNERY: Yes.

15 MR. NEVILLE: All right.

16 What isn't here is the possibility of
17 Detective Dupuis being a witness.

18 MR. McCONNERY: Yeah, I don't see his name
19 down here at all.

20 MR. NEVILLE: Now, our Exhibit 3072B -- and
21 I don't need to take up the time to show it, Commissioner --
22 -- it's the Table of Contents to the application record on
23 the 11(b).

24 MR. McCONNERY: Okay.

25 MR. NEVILLE: And Item 4 is Father

1 MacDonal'd's affidavit, and Item 5 is the portion of the
2 application record dealing with correspondence.

3 **MR. McCONNERY:** Okay.

4 **MR. NEVILLE:** All right. And that was -- if
5 you can confirm for the record because what many of the
6 public following won't know, that on 11(b) motions there's
7 frequently the filing of all procedural transcripts, so the
8 in-court history and frequently batches of correspondence,
9 things like requests for disclosure and the like.

10 **MR. McCONNERY:** Yes.

11 **MR. NEVILLE:** All right.

12 So could we next look, Commissioner, at --
13 in terms of new documents, there are three and they
14 essentially go together because they are, Commissioner,
15 from that portion of the record called "Correspondence",
16 and they are 109544, 109550, 109551.

17 One-zero-nine-five-four-four (109544), 550,
18 216 -- sorry, 111216 -- oh, sorry, I missed one. I
19 apologize; 544, 550, 551.

20 Okay, that's what I wasn't sure. What is
21 it? Thank you.

22 The first chronologically, Commissioner, is
23 544, 109544.

24 **THE COMMISSIONER:** Thank you.

25 Exhibit Number 3088 is a letter dated April

1 1st, 1998 to Ms. Mary Simpson from Robert Pelletier and
2 Exhibit 3089 is the letter dated November 20th, 1998,
3 addressed to Mr. Neville from Robert Pelletier.

4 --- EXHIBIT NO./PIÈCE NO. P-3088:

5 (109544) - Letter from Robert Pelletier to
6 Mary Simpson re: Judicial pre-trial *R. v.*
7 *Charles MacDonald* dated April 1, 1998

8 --- EXHIBIT NO./PIÈCE NO. P-3089:

9 (109550) - Letter from Robert Pelletier to
10 Michael Neville re: *R. v. Charles MacDonald*
11 dated November 20, 1998

12 **MR. NEVILLE:** So if we just look at the
13 first, Mr. McConnery, from the correspondence section of
14 the record, it's Mr. Pelletier authoring a letter to Mrs.
15 Simpson, about whom we heard some evidence, about an
16 upcoming judicial pre-trial for Father MacDonald.

17 **MR. McCONNERY:** Yes.

18 **MR. NEVILLE:** And if you turn to the second
19 page -- and this is authored on April 1st, '98, and the
20 Commissioner is aware, and I presume you are, that in late
21 January '98 is when the second set of charges was laid?

22 **MR. McCONNERY:** Yes, I am aware of that.

23 **MR. NEVILLE:** Okay. So this is in the
24 context that those are now in the system. All right?

25 **MR. McCONNERY:** In the system and committed?

1 **MR. NEVILLE:** No. The preliminary inquiry
2 takes place in March of '99. Okay?

3 **MR. McCONNERY:** Yes.

4 **MR. NEVILLE:** So if we look on page 2, the
5 first full paragraph, Mr. Pelletier is itemizing, for Mrs.
6 Simpson on behalf of the judge, the various issues that
7 could come up at the pre-trial ---

8 **MR. McCONNERY:** Yes.

9 **MR. NEVILLE:** --- Item 6, "Motions for
10 severance for joinder of counts and possible delays
11 resulting from trying all existing charges together".
12 Right?

13 **MR. McCONNERY:** Yes.

14 **MR. NEVILLE:** Indicating that on his part,
15 he's aware of that issue and is putting the court on notice
16 it might be a topic for discussion at, what we all call as
17 lawyers, a JPT?

18 **MR. McCONNERY:** Yes.

19 **MR. NEVILLE:** All right. Let's look at now
20 our Exhibit 3089.

21 It's a letter sent to me by Mr. Pelletier on
22 November 20th, 1998. If we look in the first full
23 paragraph, Mr. Pelletier is addressing the fact of a
24 problem getting the pre-trial or a pre-trial done earlier
25 in the year, right?

1 **MR. McCONNERY:** Yes.

2 **MR. NEVILLE:** And there was a problem with
3 it and he says at the end of that first paragraph:

4 "You will recall, no doubt, or have
5 been informed of the presiding
6 justice's comments at the last
7 assignment court when it was clearly
8 indicated that these matters were to be
9 pre-tried soon in order for the matter
10 to proceed as expeditiously as
11 possible."

12 If we turn to page 2, he says at the top of
13 the page:

14 "As I have mentioned to you previously,
15 it will be my intention, in any event,
16 to make a motion in due course that all
17 charges presently before both levels of
18 court be heard together. The joinder
19 of counts motion is premised upon
20 matters of the convenience, on one
21 hand, but perhaps most significantly in
22 relation to the obvious overlap of
23 issues as between both sets of charges
24 and the possibility for similar fact
25 evidence to be adduced. Given that,

1 practically speaking, a General
2 Division trial on the charges presently
3 before the General Division..."

4 Just stopping there for the public's
5 information, that's what we now call Superior Court?

6 **MR. McCONNERY:** Yes.

7 **MR. NEVILLE:** All right.

8 "...would not take place for several
9 months, if not more. There may be
10 little disadvantage in further
11 adjourning the General Division matters
12 until the conduct of the preliminary
13 inquiry next spring, in order to
14 determine the merits of any joinder of
15 counts motion and the wisdom of trying
16 all matters at the same time..."

17 And then he says at the start of the next
18 paragraph:

19 "I would be grateful for your views in
20 this connection."

21 All right?

22 **MR. McCONNERY:** Yes.

23 **MR. NEVILLE:** All right.

24 And he refers to the fact that the matter
25 will be upcoming in an assignment court in early December,

1 right?

2 MR. McCONNERY: Correct.

3 MR. NEVILLE: Let's look now at our Exhibit
4 2607.

5 (SHORT PAUSE/COURTE PAUSE)

6 MR. NEVILLE: It's on the screen there for
7 you.

8 MR. McCONNERY: Yes.

9 MR. NEVILLE: This is a letter by myself to
10 Mr. Pelletier on the 19th of January, 1999.

11 If you'd look at the second paragraph, it
12 refers at the start to a recent pre-trial conference with
13 Justice Desmarais and the upcoming assignment court or
14 speak-to date on January 21st.

15 The second paragraph:

16 "Because of the upcoming preliminary
17 inquiry on the new charges in March of
18 this year, it is my understanding that
19 you will ask that the present
20 indictment be adjourned to an
21 assignment court at a date after March,
22 1999. It is also my understanding that
23 you will indicate that this adjournment
24 is not to be taken as waiver of any
25 rights that Father MacDonald may have

1 under section 11(b) of the Charter. We
2 will advise our agent that you will be
3 making these submissions and we will
4 take no position on the record."

5 **MR. McCONNERY:** Yes. It's part of the
6 record on the 11(b), wasn't it?

7 **MR. NEVILLE:** It's from the correspondence
8 section. That's what all this is.

9 **MR. McCONNERY:** Right.

10 **MR. NEVILLE:** Pretty clear statement of
11 one's position?

12 **MR. McCONNERY:** I think it is.

13 **MR. NEVILLE:** I think it is.

14 **MR. McCONNERY:** I think that's why I
15 conceded that I ---

16 **MR. NEVILLE:** You did.

17 **MR. McCONNERY:** --- couldn't rely on waiver.

18 **MR. NEVILLE:** Well, you'd be surprised, Mr.
19 McConnery, of other things we've heard here.

20 But in any event, can we look at Document
21 Number 111216?

22 **THE COMMISSIONER:** Thank you.

23 Exhibit 3090 is a transcript of a matter
24 before the Honourable Mr. Justice Forget on January 21st,
25 1999.

1 --- EXHIBIT NO./PIÈCE NO. P-3090:

2 (111216) - Adjournment re: Charges: Sections
3 148 and 156 C.C.C. dated January 21, 1999

4 **MR. NEVILLE:** Have you been given that, sir?

5 **MR. McCONNERY:** Yes, I have.

6 **MR. NEVILLE:** All right.

7 This is the court appearance upcoming
8 referred to in the last correspondence; correct?

9 **MR. McCONNERY:** Okay. Yes.

10 **MR. NEVILLE:** And you will see that my agent
11 is there. It identifies yourself on the first line as
12 such?

13 **MR. McCONNERY:** M'hm.

14 **MR. NEVILLE:** Correct?

15 **MR. McCONNERY:** Yes.

16 **MR. NEVILLE:** All right.

17 If you look in the last five sentences of
18 her address to the court, the court being at that time
19 again -- sorry, that being then Mr. Justice Forget here in
20 Cornwall.

21 **MR. McCONNERY:** Yes.

22 **MR. NEVILLE:** If you start, using the left-
23 hand side numbers, about line 11:

24 "It's my understanding from Mr. Neville
25 that any date that is convenient to the

1 court would be suitable for him. He
2 has also asked me to indicate to the
3 court that I am not instructed and he
4 is not prepared, on behalf of Mr.
5 MacDonald, to waive any Charter right."

6 Mr. Pelletier is present and apologizes for
7 his attire, and then says in the next sentence at line 23:

8 "That is in fact the situation."

9 Correct?

10 **MR. McCONNERY:** Yes.

11 **MR. NEVILLE:** And, again, just because
12 you've made mention of it, sir, in your evidence that you
13 had looked at various transcripts and various pieces of
14 correspondence in exploring the waiver issue, primarily, I
15 suggest, because of this vague recollection that Officer
16 Dupuis had, and conferring with Mr. Pelletier, went back to
17 the actual physical record, be it trial transcripts or
18 documents, that made it clear and unequivocal there had
19 never been any waiver?

20 **MR. McCONNERY:** I agree. It was the
21 officer's recollection, but it was also -- we were going to
22 check to see if we could write anything off the waiver ---

23 **MR. NEVILLE:** Right.

24 **MR. McCONNERY:** --- to wiggle down the
25 period. So we were going to check for waiver ---

1 **MR. NEVILLE:** Of course.

2 **MR. McCONNERY:** --- and then Dupuis told us
3 what he said, and so we continued our verification.

4 **MR. NEVILLE:** And came to the realization
5 that the documents we've just reviewed are the documents on
6 the topic?

7 **MR. McCONNERY:** I agree and I conceded there
8 was no waiver.

9 **MR. NEVILLE:** Yes.

10 **MR. McCONNERY:** Yeah.

11 **MR. NEVILLE:** And, of course, we always
12 have, and it's been discussed with you in your evidence in-
13 chief and I won't go back to it, our Exhibit 2265, which is
14 the appearance by Mr. Selkirk in April of '01 when the
15 murder trial is ongoing and the topic of 11(b) and waiver
16 comes up, and it's very clear that no waiver is done?

17 **MR. McCONNERY:** I agree.

18 **MR. NEVILLE:** All right.

19 Now, can we also just have you confirm
20 because ---

21 **MR. McCONNERY:** It needs to be said for the
22 public, though, Mr. Neville, I mean, the Crown can't force
23 a waiver, obviously.

24 **MR. NEVILLE:** No.

25 **MR. McCONNERY:** Right? And the court was

1 ruling on the adjournment and granted the adjournment.

2 MR. NEVILLE: Right.

3 MR. McCONNERY: So we talked about waiver,
4 and I don't know that the public appreciates what a waiver
5 necessarily is. In protecting the rights of your client,
6 you were not prepared to waive 11(b).

7 MR. NEVILLE: Right.

8 MR. McCONNERY: The Crown was asking for it
9 and it was not forthcoming, and the judge ruled on the
10 merits of the adjournment and it was adjourned.

11 THE COMMISSIONER: I'll explain it in my
12 report.

13 MR. McCONNERY: Okay.

14 THE COMMISSIONER: Okay?

15 MR. NEVILLE: Yes. I tried to complete the
16 record there, Mr. McConnery, because of other evidence the
17 Commissioner has heard and to complete, with documentary
18 confirmation, some of what you said. All right?

19 MR. McCONNERY: Yes.

20 MR. NEVILLE: Now, can we have you confirm
21 as well, sir, on the 11(b) application, you called as
22 witnesses Inspector Hall?

23 MR. McCONNERY: Yes.

24 MR. NEVILLE: Staff Sergeant Derochie?

25 MR. McCONNERY: I wish I had my notes. Yes,

1 I believe I did.

2 MR. NEVILLE: All right.

3 We can go to the transcripts that have been
4 made exhibits, but I can assure you. Inspector Trew?

5 MR. McCONNERY: Inspector Trew I called,
6 yes.

7 MR. NEVILLE: Yes. And Perry Dunlop?

8 MR. McCONNERY: I called Perry Dunlop, yes.

9 MR. NEVILLE: Right.

10 The defence called Inspector Smith or
11 retired Inspector Smith. Let's put it this way, he
12 testified, Inspector Smith.

13 MR. McCONNERY: Okay, all right.

14 MR. NEVILLE: Detective Genier testified.

15 MR. McCONNERY: I don't recall.

16 MR. NEVILLE: Okay, and Detective Dupuis?

17 MR. McCONNERY: Yeah, I'm having some
18 trouble putting a face to Genier. I know the name. I
19 remember Joe Dupuis. I remember he testified.

20 I accept that they all testified.

21 MR. NEVILLE: The Commissioner has as an
22 exhibit each of the days -- you can see it for yourself,
23 Commissioner -- that those were the witnesses called and by
24 which parties, sir.

25 MR. McCONNERY: Yes, and I accept that. I'm

1 not questioning it.

2 **MR. NEVILLE:** And just so it's clear,
3 Commissioner -- and I have it as a separate exhibit, not
4 that you need it, but it was on the document list provided
5 by counsel for the Commission -- there is in fact a special
6 exhibit strictly for the evidence of Officer Dupuis. I
7 don't need to file it if you don't wish me to. It is
8 clear, sir, that I called him and Mr. McConnery had him
9 available for cross-examination.

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

11 **(SHORT PAUSE/COURTE PAUSE)**

12 **MR. NEVILLE:** Now, can we -- I just want to
13 turn, Mr. McConnery, to the topic of the rescheduling of
14 the trial in '02 and the changing of the judge.

15 **MR. McCONNERY:** Yes.

16 **MR. NEVILLE:** All right?

17 Can we start briefly with Exhibit 3060? And
18 just to make it easier or simple, Commissioner, I'll be
19 referring Mr. McConnery and discussing with him Exhibits
20 3060, 61, 62, 63.

21 **MR. McCONNERY:** And I have those.

22 **MR. NEVILLE:** Sixty-four (64), 65 and then
23 there will be some other subsequent ones. But let's just
24 start -- and you have all those there for you?

25 **MR. McCONNERY:** I have them.

1 **MR. NEVILLE:** All right.

2 And so just looking briefly at Exhibit 3060,
3 this is Mr. Phillips' memo addressing the question of a
4 conflict or a potential conflict if Justice Charbonneau
5 remained the trial judge.

6 **MR. McCONNERY:** Yes.

7 **MR. NEVILLE:** Right?

8 **MR. McCONNERY:** That's correct.

9 **MR. NEVILLE:** And you told the Commissioner
10 that you weren't exactly sure how it got resolved, the
11 process taken to do it, but it happened and he was removed.

12 **MR. McCONNERY:** Yes.

13 **MR. NEVILLE:** Replaced.

14 And we may or may not hear from Mr. Stewart
15 but I can advise you, Commissioner, and assist Mr.
16 McConnery that certainly my recollection is that I was
17 asked to attend upon Justice Cunningham with Mr. Stewart to
18 discuss this topic.

19 **THE COMMISSIONER:** Okay.

20 **MR. McCONNERY:** I had some recollection of
21 it. I thought you were advised of this concern.

22 **MR. NEVILLE:** Right, exactly.

23 **MR. McCONNERY:** And it was not a big deal,
24 like, everyone was on the same page, if you will.

25 **MR. NEVILLE:** Right.

1 Can we look briefly at Exhibit 3061?

2 MR. McCONNERY: Yes.

3 MR. NEVILLE: Do you have it there?

4 MR. McCONNERY: Yes, I do.

5 MR. NEVILLE: Okay. And it actually goes in
6 a sense from back to front in terms of chronologically
7 because you then -- you make notes of what you recalled of
8 our conversation of the 27th of February.

9 MR. McCONNERY: Yes, I did.

10 MR. NEVILLE: And can I just have you
11 confirm, sir, at the bottom half of the page there was
12 discussion about Justice Rutherford?

13 MR. McCONNERY: So I'm on the back page of
14 the ---

15 MR. NEVILLE: I'm on the second-last page --
16 no, sorry, I guess it would be the middle of three pages
17 and the head -- the date at the top is "Note Re: Discussed
18 with Mr. Neville, Wednesday, February 27th".

19 MR. McCONNERY: Yeah.

20 MR. NEVILLE: Do you have that?

21 MR. McCONNERY: Yes.

22 MR. NEVILLE: All right. And we have at the
23 middle half of the page a discussion recorded by yourself?

24 MR. McCONNERY: Yes.

25 MR. NEVILLE: Do you have recorded my

1 describing Justice Rutherford as quite competent in
2 criminal matters?

3 **MR. McCONNERY:** Yes.

4 **MR. NEVILLE:** And the reference to Justice
5 Chilcott as:

6 "...my preference being someone like
7 Justice Chilcott."

8 Is that what you have recorded?

9 **MR. McCONNERY:** I'm not sure why I'm having
10 trouble reading my own writing.

11 **MR. NEVILLE:** It's about six lines from the
12 bottom.

13 "He expressed the view that someone
14 like Justice Chilcott should be
15 assigned."

16 **MR. McCONNERY:** Yes, that's precisely what
17 it says.

18 **MR. NEVILLE:** Okay.

19 Now, if you go to the next page, the final
20 page ---

21 **MR. McCONNERY:** Yes.

22 **MR. NEVILLE:** --- you had received the -- I
23 guess you had:

24 "Mr. Phillips had received the contact
25 from Ms. Leblanc indicating that she in

1 turn had been advised by Mrs. Simpson,
2 the regional coordinator, that the date
3 had been moved to the 29th of April, the
4 judge had been changed to Justice
5 Chilcott, and that I had been advised
6 apart from the Crown."

7 Right? That's on the first page -- sorry.
8 That's on the first page?

9 **MR. McCONNERY:** Yeah, yes.

10 **MR. NEVILLE:** Okay. And this is what your -
11 - you get told that by Ms. Leblanc at about 2:25 on the 4th?

12 **MR. McCONNERY:** Yes.

13 **MR. NEVILLE:** All right, an attempt to reach
14 Mrs. Simpson; correct?

15 **MR. McCONNERY:** Yes.

16 **MR. NEVILLE:** Okay. So if you look at the
17 last page of your notes ---

18 **MR. McCONNERY:** Yes.

19 **MR. NEVILLE:** --- this is, I guess, you in a
20 sense thinking to yourself and recording your thoughts,
21 right?

22 **MR. McCONNERY:** Yes, it is. It is.

23 **MR. NEVILLE:** Okay. And you have ---

24 **MR. McCONNERY:** I think what it is, is an
25 effort to make sure that my previous note was as accurate

1 as it could be.

2 MR. NEVILLE: Fair enough.

3 MR. McCONNERY: In my view.

4 MR. NEVILLE: Gotcha; gotcha.

5 So we've got in the third line of that
6 entry:

7 "I just wanted to note that at no
8 time..."

9 And you underline:

10 "...if that was the case that I agree
11 with my making a private approach."

12 Right?

13 MR. McCONNERY: Okay.

14 MR. NEVILLE: Correct?

15 MR. McCONNERY: Yes, that's right.

16 MR. NEVILLE: Now, let's look at Exhibit
17 3062. These are your notes of two telephone attendances
18 upon Mrs. Simpson.

19 MR. McCONNERY: Yes.

20 MR. NEVILLE: Mary Simpson. Did you know
21 her?

22 MR. McCONNERY: You know, I feel like I
23 should know her because I've been a Crown in Ottawa but ---

24 MR. NEVILLE: Can you agree with me on this?

25 MR. McCONNERY: --- couldn't put a face to

1 the name.

2 MR. NEVILLE: All right.

3 Can you agree with me on this, that she was
4 the trial coordinator, and indeed the regional trial
5 coordinator, for a number of years?

6 MR. McCONNERY: That was certainly my
7 belief, yes.

8 MR. NEVILLE: And as far as you ever knew,
9 was a well-respected public servant?

10 MR. McCONNERY: I have no reason not to
11 accept that.

12 MR. NEVILLE: All right.

13 MR. McCONNERY: Yes.

14 MR. NEVILLE: Now, you call her ---

15 MR. McCONNERY: Yes.

16 MR. NEVILLE: --- on the 5th of March at
17 10:18 in the morning.

18 MR. McCONNERY: Yes.

19 MR. NEVILLE: And she advises you -- and I'm
20 looking at the top page of your notes, top of the page of
21 your notes -- and she's speaking about herself:

22 "Just told to advise us the trial date
23 and judge had to be adjusted. She was
24 instructed to do so by Justice
25 Cunningham."

1 Right?

2 MR. McCONNERY: Yes.

3 MR. NEVILLE: So let's go down just above
4 the time 10:30 because it's two separate calls; correct?

5 MR. McCONNERY: Yes.

6 MR. NEVILLE: "I asked her if Neville had
7 told her about wanting the trial judge
8 changed and she said 'NO'."

9 MR. McCONNERY: Correct.

10 MR. NEVILLE: It's in block letters.

11 MR. McCONNERY: It's "NO" in block letters.
12 That's correct.

13 MR. NEVILLE: Is that to reflect an emphatic
14 no?

15 MR. McCONNERY: No, it was to reflect that
16 that's what she said.

17 MR. NEVILLE: Okay. And that:

18 "If I had any problem I should write
19 directly to Justice Cunningham."

20 MR. McCONNERY: M'hm.

21 MR. NEVILLE: Right?

22 MR. McCONNERY: Yes.

23 MR. NEVILLE: So 15 minutes or so go by and
24 I guess you thought, "Perhaps I had better checkout
25 possibility number two" so you called her back to see

1 whether I had spoken or written in some private fashion to
2 Justice Cunningham, right?

3 **MR. McCONNERY:** Put that to me again, Mr.
4 Neville.

5 **MR. NEVILLE:** Yes.

6 **MR. McCONNERY:** I think -- I don't think
7 that was quite my mindset.

8 **MR. NEVILLE:** Well, let's read it:

9 "I called Mary Simpson back and said to
10 her, 'You suggested I call or write
11 Justice Cunningham. Did Mr. Neville
12 speak or write to Justice Cunningham?'
13 She said, 'NO'."

14 **MR. McCONNERY:** Okay.

15 **MR. NEVILLE:** This strictly had to do with
16 judge scheduling.

17 **MR. McCONNERY:** Yes.

18 **MR. NEVILLE:** You told her you had never
19 seen something like this.

20 **MR. McCONNERY:** Yes.

21 **MR. NEVILLE:** Okay.

22 **MR. McCONNERY:** And you know what I had
23 never seen, a five- to six-week adjournment without being
24 consulted.

25 **MR. NEVILLE:** You know what, Mr. McConnery,

1 nor had I.

2 THE COMMISSIONER: Mr. Neville.

3 MR. NEVILLE: I'll move on.

4 THE COMMISSIONER: I don't want to have your
5 evidence unless you want to take the stand.

6 MR. NEVILLE: I will move on.

7 THE COMMISSIONER: Thank you.

8 MR. NEVILLE: Now, Mrs. Simpson was the
9 regional trial coordinator; correct?

10 MR. McCONNERY: Yes.

11 MR. NEVILLE: She worked for and reported to
12 the regional senior judge?

13 MR. McCONNERY: Correct.

14 MR. NEVILLE: She, on behalf of the judge,
15 or he on his own behalf, was responsible for scheduling,
16 booking of judges, keeping the courts moving?

17 MR. McCONNERY: Yes, that would be her job.

18 MR. NEVILLE: All right.

19 Now, your questions to her; two questions:
20 What if any role did she have in theory with me and what
21 role if any had her boss, the judge, had. Right?

22 MR. McCONNERY: Yes.

23 MR. NEVILLE: Fair enough?

24 Now, given her role and what ---

25 MR. McCONNERY: Yes.

1 **MR. NEVILLE:** Now, given her role and what
2 her duties were and to whom she reported, would you agree
3 with me that it's quite likely, almost a certainty, she
4 would have taken these queries to the judge?

5 **MR. McCONNERY:** My queries?

6 **MR. NEVILLE:** Yeah.

7 **MR. McCONNERY:** I imagine she would have.

8 **MR. NEVILLE:** Sure.

9 So let's look at Exhibit 3064. Do you have
10 it?

11 **MR. McCONNERY:** Yes, I do.

12 **MR. NEVILLE:** This is Mr. Stewart's
13 communication to Justice Cunningham.

14 **MR. McCONNERY:** Yes, March 14th.

15 **MR. NEVILLE:** Yes, March 14th.

16 Raising specifically not the judge choice
17 issue but the delay issue.

18 **MR. McCONNERY:** Yes, it does.

19 **MR. NEVILLE:** Okay.

20 Let's look at Exhibit 3065, Mr. Justice
21 Cunningham's reply. Do you have it?

22 **MR. McCONNERY:** Yes, I do.

23 **MR. NEVILLE:** Would you agree with me, Mr.
24 McConnery, that the letter is blunt?

25 **MR. McCONNERY:** I can agree with that

1 description of the letter.

2 MR. NEVILLE: Right. And he makes it
3 unequivocally clear that what happened here was him doing
4 this, right?

5 MR. McCONNERY: Certainly.

6 MR. NEVILLE: Pardon me?

7 MR. McCONNERY: Certainly.

8 MR. NEVILLE: And you've agreed with me that
9 when he wrote this letter, in all likelihood he would also
10 know from Mrs. Simpson about your queries?

11 MR. McCONNERY: I certain -- I don't know
12 that. I certainly wouldn't doubt that.

13 MR. NEVILLE: Right. And he makes it very
14 clear that these are "my decisions" for the reasons of
15 judge shortages and the like, and that's the end of it,
16 right?

17 MR. McCONNERY: I would take it that because
18 when I spoke both to Ms. Leblanc and Ms. Simpson that there
19 was a degree of anger in my presentation.

20 MR. NEVILLE: Right.

21 MR. McCONNERY: That they would relate that
22 to the senior judge and ---

23 MR. NEVILLE: Of course.

24 MR. McCONNERY: --- maybe the letter was a
25 put down of me.

1 **MR. NEVILLE:** Well, what I'm suggesting, Mr.
2 McConnery, is perhaps less so than perhaps that, the letter
3 was written in the context that Justice Cunningham knew of
4 your concerns, your upset if you will, and addressed it in
5 a very blunt fashion "It's my call", right?

6 **MR. McCONNERY:** You know something? If
7 that's the regional judge's response, I have a little bit
8 of difficulty with that?

9 **MR. NEVILLE:** Fair enough. You thought it
10 should have been done in court?

11 **MR. McCONNERY:** Absolutely.

12 **MR. NEVILLE:** Absolutely. Fair enough.

13 Now, ---

14 **MR. McCONNERY:** I should ---

15 **MR. NEVILLE:** So let me suggest this to you.

16 **MR. McCONNERY:** Yes.

17 **MR. NEVILLE:** The follow-up as a possibility
18 of options is to go -- is the teleconference with Mr.
19 Segal.

20 **MR. McCONNERY:** I think the teleconference
21 with Segal preceded that email or communication, in any
22 event, from Mr. Stewart.

23 **MR. NEVILLE:** Well, what you told the
24 Commissioner yesterday in-chief, at page 92 of the
25 transcript, was that you told Mr. Segal what we had. And

1 I'm going to suggest to you that it wouldn't be much point
2 -- it would be more significant to call him in the context
3 of having the chief judge's reply.

4 **MR. McCONNERY:** I don't think so. I don't
5 think that's why we spoke to Mr. Segal.

6 **MR. NEVILLE:** Okay. So you're telling the
7 Commissioner you spoke to Mr. Segal in the context of what
8 are our options, and that is in particular having no east
9 region judge do the trial?

10 **MR. McCONNERY:** See, I never got to that
11 position ---

12 **MR. NEVILLE:** Well ---

13 **MR. McCONNERY:** --- myself. I think the
14 call was made because I was concerned that if there had
15 been an approach by counsel, by yourself, to have the judge
16 trial changed, that that was something that we spoke to Mr.
17 Segal about, and my recollection, very clear, I thought
18 fairly dramatically, he said "Whoa, hold on. Do you really
19 have grounds to believe that or to want to take on the
20 whole east region just from the scenario you've got there?"

21 So when I spoke with Segal -- I'm sorry, I'm
22 not intending to be disrespectful to my Deputy Minister --
23 to Mr. Murray Segal ---

24 **MR. NEVILLE:** Right.

25 **MR. McCONNERY:** --- we were telling him

1 where we were, and I think he told us "Geeze, I think
2 you're overreaching here" or something like that.

3 **MR. NEVILLE:** So that may be ---

4 **MR. McCONNERY:** It didn't necessarily
5 destroy my upset at the fact that I'm being told this big
6 trial that has incredible interest in it is going to be
7 adjourned.

8 **MR. NEVILLE:** Right. Gotcha.

9 **MR. McCONNERY:** There were a couple of areas
10 that angered me here.

11 **MR. NEVILLE:** Fair enough.

12 So you may even have received the regional
13 judge's answer that we've discussed at some detail here
14 ---

15 **MR. McCONNERY:** Yes.

16 **MR. NEVILLE:** --- after speaking to Mr.
17 Segal?

18 **MR. McCONNERY:** In fact, that's what I would
19 say.

20 **MR. NEVILLE:** Okay.

21 **MR. McCONNERY:** That was after.

22 **MR. NEVILLE:** Fine.

23 So let's look briefly, if we can, at Exhibit
24 3043 and with it, Commissioner, Document Number 130345.

25 You have the numbered exhibit already I take

1 it with you there?

2 MR. McCONNERY: Which one is that?

3 MR. NEVILLE: Three-zero-four-three (3043).

4 MR. McCONNERY: Sorry, I didn't look that
5 up.

6 MR. NEVILLE: It's an undated -- it's the
7 undated email from Mr. Phillips to Mr. Pearson ---

8 MR. McCONNERY: Yes.

9 MR. NEVILLE: --- about the topic of an out
10 of area judge, right?

11 MR. McCONNERY: Yes.

12 MR. NEVILLE: And do you also --
13 Commissioner, if we have -- it's coming.

14 THE COMMISSIONER: Exhibit 3091 is an email
15 correspondence from Shelley Hallett to John Pearson and
16 Lorne McConnery, et al, on May 24th, 2001.

17 ---EXHIBIT NO./PIÈCE NO. P-3091:

18 (130345) - E-mail from Shelley Hallett to
19 Lorne McConnery re: Ont CA decision in *R. v.*
20 *Lake* - Application to *R. v. Leduc* dated May
21 24, 2001

22 MR. McCONNERY: Yes, I have both of those.

23 MR. NEVILLE: You have that?

24 Now, just for context, Mr. McConnery, you
25 knew, I take it, from various sources, that Mr. Leduc's

1 first trial had started with the presiding judge being Mr.
2 Justice MacKinnon?

3 **MR. McCONNERY:** Correct.

4 **MR. NEVILLE:** And at some point fairly well
5 into the trial, I think a matter of several days and
6 several witnesses, unexpectedly sort of out of nowhere came
7 the indication that Mr. Dunlop -- or Constable Dunlop --
8 had some connection to the facts?

9 **MR. McCONNERY:** My recollection was, as
10 explained to me by various sources, was that that was a
11 concern at the outset of the trial and Ms. Hallett had
12 taken a certain position ---

13 **MR. NEVILLE:** Right.

14 **MR. McCONNERY:** --- and then in the trial
15 proceedings, a witness said ---

16 **MR. NEVILLE:** Right.

17 **MR. McCONNERY:** --- "I did deal with Officer
18 Dunlop". Yes.

19 **MR. NEVILLE:** Right. That's what I'm
20 getting at.

21 **MR. McCONNERY:** Yes.

22 **MR. NEVILLE:** The notion ---

23 **MR. McCONNERY:** And I agree, yeah.

24 **MR. NEVILLE:** She thought, from whatever
25 reasons, that Mr. Dunlop had no part of that scenario.

1 **MR. McCONNERY:** Yes.

2 **MR. NEVILLE:** Turned out mid-trial, many
3 witnesses into the trial in front of Justice MacKinnon, out
4 came evidence that perhaps he did have some connection of
5 some kind. I'm not going into detail.

6 **MR. McCONNERY:** I agree with that.

7 **MR. NEVILLE:** And as a result of the
8 unfolding of that circumstance, Justice MacKinnon, for
9 reasons of his -- I think it would have been some seven
10 years earlier had given an opinion about Mr. Dunlop being
11 charged and confirmed that from police documents and
12 recused himself, and Justice Chadwick came in.

13 **MR. McCONNERY:** And the record will speak
14 for itself.

15 **MR. NEVILLE:** Right.

16 **MR. McCONNERY:** I didn't understand he ever
17 recused himself. And I -- it's one of those things; I
18 wondered how this could possibly happen. A judge doing a
19 trial steps aside ---

20 **MR. NEVILLE:** Oh, no, I'm not worried about
21 how they replaced him, I'm just -- all I want to have clear
22 for the record, the public record at least, is that Mr.
23 Justice MacKinnon recusing himself came well into the trial
24 when ---

25 **MR. McCONNERY:** But he only recused himself

1 for the motion.

2 MR. NEVILLE: No, I understand that.

3 MR. McCONNERY: Okay. Yes.

4 MR. NEVILLE: I understand that.

5 MR. McCONNERY: Yes.

6 MR. NEVILLE: Well, the trial came to an
7 abrupt end.

8 MR. McCONNERY: It did.

9 MR. NEVILLE: Right.

10 MR. McCONNERY: But my point was that if the
11 trial had continued ---

12 MR. NEVILLE: Right.

13 MR. McCONNERY: --- it wouldn't have to have
14 been set over.

15 MR. NEVILLE: Fair enough.

16 MR. McCONNERY: It was going to go back
17 before Justice MacKinnon.

18 MR. NEVILLE: But when he steps down ---

19 MR. McCONNERY: Yes.

20 MR. NEVILLE: --- it's because it had been
21 brought to his attention that some seven years before he'd
22 given an opinion to the Cornwall Police about charging Mr.
23 Dunlop, right?

24 MR. McCONNERY: Yes.

25 MR. NEVILLE: All right.

1 So let's look at our new Exhibit 3091. This
2 is an email from Ms. Hallett to Mr. Pearson with a CC to
3 you and Mr. Pelletier.

4 **MR. McCONNERY:** Yes.

5 **MR. NEVILLE:** Second paragraph refers to the
6 fact -- has to do with the question of bias, right?

7 **MR. McCONNERY:** Yes.

8 **MR. NEVILLE:** And she writes:

9 "This decision may have some..."

10 The case she's talking about.

11 **MR. McCONNERY:** Yes.

12 **MR. NEVILLE:** "...may have some

13 Application to the Leduc appeal,
14 particularly if information received
15 from Bob Pelletier via Lorne McConnery
16 is correct. Bob recently told Lorne
17 that Colin MacKinnon, before his
18 appointment to the Bench, represented
19 for Reverend Charles MacDonald on a set
20 date appearance on Project Truth
21 charges before Michael Neville was
22 retained."

23 Now, stopping there, first of all, do you
24 recall ever passing that information on or even getting
25 that kind of information?

1 **MR. McCONNERY:** Well, when I read the email,
2 it seems to me that the information she's relating there is
3 somewhat inaccurate.

4 **MR. NEVILLE:** That's my point.

5 **MR. McCONNERY:** But whether or not I ever
6 spoke to her, I don't have a recall, but I do not recall at
7 any time having any reason to believe that Mr. MacKinnon,
8 as he then was, had been counsel on a court appearance.

9 **MR. NEVILLE:** That's my point, Mr.
10 McConnery.

11 All I'm trying to get clear here because his
12 name is bandied about, unfairly at many times, he did not
13 act for Charles MacDonald prior to his being -- after he
14 was charged?

15 **THE COMMISSIONER:** Mr. ---

16 **MR. NEVILLE:** He was on the Bench.

17 **THE COMMISSIONER:** Mr. Neville?

18 **MR. NEVILLE:** Sorry.

19 **THE COMMISSIONER:** You represent the
20 interests of Mr. MacDonald and Mr. -- Mr. MacKinnon can
21 take care of himself. I don't need the editorializing.

22 **MR. NEVILLE:** Well, I don't know how he
23 would, sir. He's not here and he doesn't have standing.

24 **THE COMMISSIONER:** Well, you're not
25 representing him.

1 **MR. NEVILLE:** No, I do not represent him.

2 **THE COMMISSIONER:** So I want you to cut out
3 -- you know, frankly, it's unnecessary. I'm going to make
4 my findings with respect to what I have to do.

5 All I'm telling you is those adjectives just
6 don't help anything. All right?

7 **MR. NEVILLE:** I hear you. Thank you.

8 **MR. McCONNERY:** Mr. Neville, if it helps, my
9 understanding was that Justice MacKinnon, just prior to his
10 appointment, had indicated that he was representing Father
11 MacDonald who had not yet been charged.

12 **MR. NEVILLE:** Exactly. And between
13 indicating that to Mr. Pelletier -- we have memos ---

14 **MR. McCONNERY:** Yes.

15 **MR. NEVILLE:** --- and the date of the
16 charges in March, was appointed?

17 **MR. McCONNERY:** I agree with that.

18 **MR. NEVILLE:** All right. Fair enough. All
19 right. Let's leave that.

20 **MR. McCONNERY:** Okay.

21 **MR. NEVILLE:** Let's look at -- I want to ask
22 you just a few questions about C-8.

23 **MR. McCONNERY:** C-8, yes.

24 **MR. NEVILLE:** C-8, the individual known as
25 C-8?

1 MR. McCONNERY: Yes.

2 MR. NEVILLE: If you could keep C-8 firmly
3 up there ---

4 MR. McCONNERY: You might have to wave that
5 in front of me.

6 MR. NEVILLE: Okay.

7 MR. McCONNERY: Can I put these other
8 binders aside?

9 MR. NEVILLE: I think so. Well, there is an
10 exhibit you may need, 3068. It could be in there.

11 MR. McCONNERY: Okay. It is. Yes.

12 MR. NEVILLE: And 3069.

13 MR. McCONNERY: Correct.

14 MR. NEVILLE: I'll just start with those and
15 then I'll refer you to other documents briefly after that.

16 So you have 3068 which is your fully
17 developed notes, I think you told the Commissioner
18 primarily for disclosure purposes, about the interview with
19 C-8; correct?

20 MR. McCONNERY: Yes.

21 MR. NEVILLE: And if we look on page 1 ---

22 MR. McCONNERY: Yes.

23 MR. NEVILLE: --- the first -- the last big
24 paragraph from the bottom of the page ---

25 MR. McCONNERY: Yes.

1 **MR. NEVILLE:** --- you record yourself as
2 asking him about the upcoming trial.

3 **MR. McCONNERY:** Correct.

4 **MR. NEVILLE:** And it's at that point that he
5 says he would like the charges dropped?

6 **MR. McCONNERY:** Yes.

7 **MR. NEVILLE:** Yes?

8 And explains that he thought he had been
9 pushed into the matter -- I presume meaning the MacDonald
10 matter -- by Mr. Dunlop?

11 **MR. McCONNERY:** Yes.

12 **MR. NEVILLE:** And indeed used the phrase
13 that he felt used by Dunlop?

14 **MR. McCONNERY:** Correct.

15 **MR. NEVILLE:** Particularly by Dunlop;
16 correct?

17 **MR. McCONNERY:** Used by everyone,
18 particularly Dunlop.

19 **MR. NEVILLE:** And particularly Dunlop,
20 right?

21 **MR. McCONNERY:** Yes.

22 **MR. NEVILLE:** He confirms that his statement
23 had been written jointly with Mr. Dunlop?

24 **MR. McCONNERY:** Yes.

25 **MR. NEVILLE:** Okay. And that he was

1 involved in conveying the statement along with Mr.
2 Bourgeois?

3 **MR. McCONNERY:** Yes, that's right. That's
4 correct, yes.

5 **MR. NEVILLE:** Mr. Bourgeois was apparently
6 his lawyer and Mr. Dunlop's lawyer?

7 **MR. McCONNERY:** Correct.

8 **MR. NEVILLE:** And you came to learn he was
9 Mr. Silmser's lawyer, Mr. MacDonald's lawyer and C-3's
10 lawyer?

11 **THE COMMISSIONER:** Just a minute. Just a
12 minute. Who again?

13 **MR. NEVILLE:** Charles Bourgeois.

14 **THE COMMISSIONER:** Yes. He was the lawyer
15 for who?

16 **MR. NEVILLE:** Became the lawyer for David
17 Silmser ---

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

19 **MR. NEVILLE:** --- John MacDonald -- not --
20 sorry, I was wrong on C-3, the first two.

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

22 **MR. NEVILLE:** You're right, not C-3. That
23 was Mr. Geoffrey.

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

25 **MR. NEVILLE:** You were aware of all that?

1 **MR. McCONNERY:** I probably was, but now that
2 you say it, I don't recall today that he was ---

3 **MR. NEVILLE:** All right.

4 **MR. McCONNERY:** --- Silmser's and John
5 MacDonald's lawyer.

6 **MR. NEVILLE:** All right.

7 So let's look now at the bottom. C-8 goes
8 on to confirm that in 1996, having learned through the
9 media of Mr. Dunlop and his activities, decided to go to
10 see him and indicates that his real focus -- and I'm
11 looking at the top of page 2 -- was not Father MacDonald or
12 anybody else for that matter, it was Mr. Leroux?

13 **MR. McCONNERY:** Yes.

14 **MR. NEVILLE:** And he goes on to say in that
15 paragraph that in fact he had provided Dunlop a three- or
16 four-page statement about Leroux which he had never seen
17 again?

18 **MR. McCONNERY:** Yes.

19 **MR. NEVILLE:** Okay. And confirms at the
20 bottom of that paragraph that Mr. Dunlop kept pushing "the
21 priests", right?

22 **MR. McCONNERY:** In quotation marks.

23 **MR. NEVILLE:** Yes, I see that. And he put
24 it that way because he was -- that's his words?

25 **MR. McCONNERY:** Those were ---

1 **MR. NEVILLE:** His words.

2 **MR. McCONNERY:** --- C-8's words.

3 **MR. NEVILLE:** Quoting Dunlop?

4 **MR. McCONNERY:** Yes.

5 **MR. NEVILLE:** Yes. All right.

6 So let's look at the next full paragraph
7 because the next paragraph, through to the top of page 3,
8 is about these videos.

9 **MR. McCONNERY:** Okay. Yes.

10 **MR. NEVILLE:** Right?

11 **MR. McCONNERY:** Yes.

12 **MR. NEVILLE:** And one of the topics that you
13 discussed with him was whether or not there had been videos
14 made of a homemade nature with a camera at the foot of the
15 bed of Mr. Seguin, right?

16 **MR. McCONNERY:** Yes.

17 **MR. NEVILLE:** So let's look at what you
18 learn from him. I'm looking about eight lines from the
19 bottom.

20 **MR. McCONNERY:** Okay.

21 **MR. NEVILLE:** "C-8 said that with respect
22 to the tapes, he couldn't say what he
23 really knew about the tapes, if
24 anything, because Dunlop had told him
25 so much about the tapes."

1 Right?

2 **MR. McCONNERY:** Yes.

3 **MR. NEVILLE:** "He was adamant he'd never
4 seen them before nor after the police
5 took them, and he certainly never
6 watched them. I [meaning yourself]
7 asked him pointedly if he knew anything
8 about Ken Seguin doing home porno
9 videos, i.e. camera aimed at Seguin's
10 bed. He denied ever seeing such a
11 camera..."

12 **THE COMMISSIONER:** Hang on. Hang on.

13 **MR. NEVILLE:** Sorry.

14 **THE COMMISSIONER:** Madam Clerk?

15 **MR. NEVILLE:** Sorry, Commissioner.

16 It's the second -- the next page, Madam
17 Clerk.

18 **THE COMMISSIONER:** Go ahead.

19 **MR. NEVILLE:** "He denied ever seeing such
20 a camera or anyone ever talking or
21 admitting knowledge of such a
22 camera..."

23 **MR. McCONNERY:** Yes.

24 **MR. NEVILLE:** Now, that bears a connection
25 to some of what Mr. Guzzo was saying in the legislature.

1 **MR. McCONNERY:** Oh yes, definitely.

2 **MR. NEVILLE:** All right.

3 And that would be of some interest to you to
4 see what he, a person who had been in that house, might
5 know on that topic. Is that fair?

6 **MR. McCONNERY:** Well, not only that; wasn't
7 he the source of the police being in the house ---

8 **MR. NEVILLE:** Yes, he was.

9 **MR. McCONNERY:** --- when the videotapes were
10 recovered?

11 **MR. NEVILLE:** Precisely. It was his
12 complaint that they were exercising an investigation on him
13 of threats.

14 **MR. McCONNERY:** They weren't looking for the
15 videotapes though.

16 **MR. NEVILLE:** No, no, they found them as
17 part of searching the house.

18 **MR. McCONNERY:** I agree.

19 **MR. NEVILLE:** You're right.

20 "He denied ever seeing such
21 a camera or anyone ever talking or
22 admitting knowledge of such a camera,
23 but he said he had heard from Dunlop
24 about Ken Seguin having a camera and
25 about home videos..."

1 Right?

2 MR. McCONNERY: Yes.

3 MR. NEVILLE: "...but he couldn't..."

4 Should that read "couldn't now tell us what
5 Dunlop told him" or "didn't tell him"?

6 MR. McCONNERY: Yes. It says:

7 "He couldn't know tell us..."

8 MR. NEVILLE: I think it should be "now".

9 MR. McCONNERY: K-N-O-W, but I think I meant
10 to say "now".

11 MR. NEVILLE: All right. That's fine.

12 So then we turn over to page 4, using your
13 numbering.

14 MR. McCONNERY: Yes.

15 MR. NEVILLE: The top of the page, you're in
16 the process of explaining to C-8 what you saw as the ---

17 THE COMMISSIONER: C-8.

18 MR. NEVILLE: Oh! I've done pretty well for
19 over a year, but there I go.

20 C-8, about your concerns about him and you
21 make it very clear to him that having looking at some
22 documents, right ---

23 MR. McCONNERY: Yes.

24 MR. NEVILLE: --- documents that the defence
25 had produced?

1 **MR. McCONNERY:** Yes.

2 **MR. NEVILLE:** And his cross-examination in
3 particular, that you felt and were telling him virtually,
4 in so many words, that his story about the funeral assault
5 was not true?

6 **MR. McCONNERY:** I was saying to him that it
7 appeared pretty clear that it didn't happen on the date of
8 the funeral.

9 **MR. NEVILLE:** Right.

10 **MR. McCONNERY:** So, yes, I think I put it to
11 him pretty squarely.

12 **MR. NEVILLE:** And it's in that context, as
13 you're putting to him your view of his evidence and how he
14 would be challenged vigorously at trial, that he suddenly
15 says, "That never happened at my father's funeral".

16 **MR. McCONNERY:** Yes.

17 **MR. NEVILLE:** And you weren't sure what he
18 meant, so you basically said, "You mean it didn't happen at
19 the funeral or it didn't happen at all"?

20 **MR. McCONNERY:** He said it in a way that I
21 thought he was saying number two.

22 **MR. NEVILLE:** Right.

23 **MR. McCONNERY:** The second version, when he
24 may have just been saying number one.

25 **MR. NEVILLE:** Right. Well, that's ---

1 **MR. McCONNERY:** And we were -- my recall is
2 we were both speaking at the same time.

3 **MR. NEVILLE:** All right.
4 Let's see what you wrote.

5 **MR. McCONNERY:** Yeah.

6 **MR. NEVILLE:** Eight lines from the bottom of
7 that paragraph:

8 "Do you mean it didn't happen at your
9 father's funeral but happened at
10 another time or do you mean it never
11 happened at all?"

12 Right?

13 **MR. McCONNERY:** Right.

14 **MR. NEVILLE:** And the answer you got was:

15 "What I said happened with the
16 candle..."

17 Which is the funeral.

18 **MR. McCONNERY:** Yes.

19 **MR. NEVILLE:** "...never happened at all."

20 **MR. McCONNERY:** Yes.

21 **MR. NEVILLE:** Okay. And explain ---

22 **MR. McCONNERY:** When I interrupted you, Mr.
23 Neville, I just meant to say that that struck me when he
24 spoke as I spoke and I wasn't sure if that's what he meant.

25 **MR. NEVILLE:** I got you, and you clarified

1 it.

2 MR. McCONNERY: Yeah.

3 MR. NEVILLE: And what's interesting, I
4 suggest, is that he goes on to say that:

5 "The source of the candle detail came
6 from Mr. Dunlop."

7 MR. McCONNERY: Yes.

8 MR. NEVILLE: Okay. Perhaps, if it's
9 acceptable, Commissioner, I'll tidy up this one point about
10 C-8 with another two documents, if you'll -- I'm just
11 mindful of whether you wanted to break or just carry on?

12 THE COMMISSIONER: No, if you can -- five
13 minutes?

14 MR. NEVILLE: If that.

15 THE COMMISSIONER: Okay. Go ahead.

16 MR. NEVILLE: Could we look briefly,
17 Commissioner, at -- sorry, Mr. McConnery, at our Exhibit
18 1440?

19 And it's a letter, Commissioner, by
20 Detective Inspector Hall to Mr. Stewart.

21 THE COMMISSIONER: One-four-four-zero
22 (1440), right.

23 MR. McCONNERY: Okay.

24 MR. NEVILLE: Do you have the letter there?

25 MR. McCONNERY: I do, sir.

1 **MR. NEVILLE:** I'm sorry, yes?

2 **MR. McCONNERY:** I do, yes.

3 **MR. NEVILLE:** Thank you.

4 You can see that Inspector Hall refers to
5 the interview that we've just explored with you at the
6 bottom of the first page.

7 **MR. McCONNERY:** Yes.

8 **MR. NEVILLE:** And he refers to C-8 in the
9 second-last line:

10 "Further indicated he had lied at the
11 preliminary hearing."

12 Now, just stopping there, you can confirm
13 for us, Mr. McConnery, that C-8 had in fact perjured
14 himself on a number of occasions because his statements
15 were under oath at the OPP. They were sworn statements.

16 **MR. McCONNERY:** If you're telling me that I
17 accept that.

18 **MR. NEVILLE:** All right.

19 **MR. McCONNERY:** I don't remember that.

20 **MR. NEVILLE:** One about Father Charles, one
21 about the teacher, each under oath, and we know from the
22 trial of Mr. Lalonde that a portion of his story was
23 fabricated there.

24 **THE COMMISSIONER:** I'm sorry, what did you
25 say?

1 **MR. NEVILLE:** A portion of the story ---

2 **THE COMMISSIONER:** A portion, yes.

3 **MR. NEVILLE:** --- was fabricated about the
4 school trip?

5 **MR. McCONNERY:** Yes, that's what I
6 understood.

7 **MR. NEVILLE:** On the basis that the Board
8 had deeper pockets, right?

9 **MR. McCONNERY:** Yes.

10 **MR. NEVILLE:** Okay. He had testified at two
11 preliminary inquiries, Father Charles and Mr. Lalonde,
12 right?

13 **MR. McCONNERY:** Yes.

14 **MR. NEVILLE:** Okay. And then we look at the
15 second page, the second paragraph:

16 "One has to be mindful that any
17 investigation of C-8 will lead into the
18 actions of former Constable Perry
19 Dunlop. Dunlop was the person who
20 originally solicited sexual assault
21 allegations from C-8, according to C-8,
22 influenced him into providing a
23 complaint and possibly its contents."

24 **MR. McCONNERY:** Yes.

25 **MR. NEVILLE:** Now, this is, in effect, a

1 request, so to speak, by Officer Hall to the regional Crown
2 as to a possible investigation into C-8's conduct that
3 might bring into play the conduct of former Constable
4 Dunlop.

5 Did you have any further dealings with this
6 topic?

7 **MR. McCONNERY:** As it relates to Dunlop or
8 C-8?

9 **MR. NEVILLE:** Both, on this issue of perjury
10 or possibly counselling perjury, beyond what's referred to
11 here. Were you consulted -- were you ---

12 **MR. McCONNERY:** Pat Hall consulted me about
13 a very broad -- maybe that's not the right word, but about
14 the whole issue of whether or not there should be criminal
15 charges laid against Perry Dunlop.

16 **MR. NEVILLE:** Okay. And would I be fair to
17 say ---

18 **MR. McCONNERY:** It wasn't specific to C-8.

19 **MR. NEVILLE:** I understand.

20 Would it be fair to say that -- just to
21 close off before the break -- that one of the topics apart
22 from possible perjury activity was a more global allegation
23 of obstruction?

24 **MR. McCONNERY:** Yes.

25 **MR. NEVILLE:** By hiding documents?

1 **MR. McCONNERY:** Yes.

2 **MR. NEVILLE:** By keeping them deliberately
3 from the police, having undertaken to give everything?

4 **MR. McCONNERY:** Yes.

5 **MR. NEVILLE:** Having testified on one or
6 more occasions that he had given everything?

7 **MR. McCONNERY:** Yes.

8 **MR. NEVILLE:** And then admitted that in fact
9 he hadn't?

10 **MR. McCONNERY:** Yes.

11 **MR. NEVILLE:** On that note, Commissioner --

12 -

13 **THE COMMISSIONER:** Thank you.

14 Let's take the afternoon break.

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

17 The hearing will resume at 3:30 p.m.

18 --- Upon recessing at 3:12 p.m. /

19 L'audience est suspendue à 15h12

20 --- Upon resuming at 3:37 p.m. /

21 L'audience est reprise à 15h37

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

24 This hearing is now resumed.

25 Please be seated. Veuillez vous asseoir.

1 THE COMMISSIONER: Yes, sir.

2 MR. NEVILLE: Thank you.

3 LORNE McCONNERY, Resumed/Sous le même serment:

4 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

5 NEVILLE (cont'd/suite):

6 MR. NEVILLE: I just want to touch very
7 briefly, Mr. McConnery, on the matter of C-2.

8 MR. McCONNERY: Yes.

9 MR. NEVILLE: C-2 together with C-8 are the
10 charges you withdrew early in the 11(b) motion once you had
11 had an opportunity to directly and personally advise C-2 of
12 your decision?

13 MR. McCONNERY: Yes.

14 MR. NEVILLE: All right.

15 And if I understood your evidence correctly,
16 even before you actually have your meeting with him where
17 you start to form, shall we say, your impressions on March
18 13th, 2002 -- and we have that at our Exhibit 3070 -- we
19 don't need to go to it, but ---

20 MR. McCONNERY: Yes.

21 MR. NEVILLE: And I think you told the
22 Commissioner that, as in the case of C-8, one of the
23 reasons for those two interviews -- and let's just focus
24 for the moment on C-2 -- was having read the material,
25 including a cross-examination at the preliminary inquiry,

1 you had significant concerns on the issue of reasonable
2 prospect of conviction in any event?

3 **MR. McCONNERY:** Yes.

4 **MR. NEVILLE:** And may I suggest to you that
5 when you came to that interview and Detective Seguin was
6 there taking notes -- now, I don't want to get into unduly
7 -- detailed specifics to unduly embarrass anyone, but one
8 of the main events this person had complained of was a
9 group event at a certain parish?

10 **MR. McCONNERY:** Yes.

11 **MR. NEVILLE:** And as part of this March 13th
12 interview, for the first time added a family member as a
13 possible participant in the group activity?

14 **MR. McCONNERY:** Yes.

15 **MR. NEVILLE:** And that, needless to say, was
16 kind of the straw on the camel's back?

17 **MR. McCONNERY:** And a group -- a family
18 member who had recently deceased.

19 **MR. NEVILLE:** Right. And a very close
20 family member, without getting specific?

21 **MR. McCONNERY:** Yes.

22 **MR. NEVILLE:** Right.

23 And based on the previous testimony, it was
24 not likely to be acceptable?

25 **MR. McCONNERY:** I've tried to review the

1 material from C-2. I thought there was sort of another
2 progression in his story ---

3 MR. NEVILLE: Yes.

4 MR. McCONNERY: --- that I found concerning.

5 MR. NEVILLE: Right.

6 MR. McCONNERY: And I couldn't find it.

7 MR. NEVILLE: From apparent dreams to so-
8 called reality?

9 MR. McCONNERY: And in fact another person.

10 MR. NEVILLE: Yes.

11 MR. McCONNERY: The identification of Father
12 MacDonald.

13 MR. NEVILLE: Right.

14 MR. McCONNERY: Then a second person.

15 MR. NEVILLE: Right.

16 MR. McCONNERY: Then a family member, but
17 not all when he came forward and made his original
18 complaint.

19 MR. NEVILLE: I have you.

20 So for any number of reasons your
21 preliminary preparation and the details of the interview
22 informed your decision?

23 MR. McCONNERY: Yes.

24 MR. NEVILLE: All right.

25 Can I just touch on briefly an issue that

1 we've heard a bit about including during your testimony,
2 and that is your follow-up sessions with Inspector Hall on
3 the business of the videos ---

4 **MR. McCONNERY:** Yes.

5 **MR. NEVILLE:** --- and Mr. Guzzo. All right?

6 And just before I touch on that
7 specifically, can we look at Exhibit 3050?

8 **MR. McCONNERY:** Yes, I have it.

9 **MR. NEVILLE:** Do you have it? Those are
10 your fairly detailed, lengthy notes of your dealings with
11 Inspector Hall primarily in relation to the briefs?

12 **MR. McCONNERY:** Yes.

13 **MR. NEVILLE:** All right.

14 And could we turn to -- it would be the
15 third page and which, for the record, is Bates page 940?

16 **MR. McCONNERY:** Yes.

17 **MR. NEVILLE:** The bottom half of the page is
18 where you record the fact that you, I gather from what I
19 heard you tell us, largely at the urging or recommendation
20 of Mr. Segal have Inspector Hall make it clear to you where
21 he was coming from on the RPG issue.

22 **MR. McCONNERY:** Yes.

23 **MR. NEVILLE:** And what you've recorded --
24 and I don't recall you telling us that. If you did I
25 apologize, I may have missed it. Apart from his state of

1 mind on RPG, which he's recorded or you've recorded quite
2 dramatically about not putting his hand or having anybody
3 else's hand on the Bible based on Leroux, you'd also
4 recorded that you'd discussed the topic with Detective
5 Dupuis. Do you see that?

6 The last big paragraph:

7 "I told P. Hall that I wished to
8 discuss his views."

9 Right?

10 **MR. McCONNERY:** Yes.

11 **MR. NEVILLE:** Go down five lines and it's in
12 brackets.

13 **MR. McCONNERY:** Yes, okay.

14 **MR. NEVILLE:** So it appears that prior to
15 meeting with Mr. Hall on the topic, you had had a
16 discussion on the topic directly with Detective Dupuis,
17 right?

18 **MR. McCONNERY:** Yes, I see that.

19 **MR. NEVILLE:** One of the actual hands on
20 investigators.

21 **MR. McCONNERY:** Yes.

22 **MR. NEVILLE:** All right.

23 And he too said he could not have or did not
24 have any subjective belief about either Bishop LaRocque or
25 any of the others ---

1 **MR. McCONNERY:** Yes.

2 **MR. NEVILLE:** --- including the conspiracy,
3 right?

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

5 **MR. NEVILLE:** Okay.

6 **MR. McCONNERY:** Actually, I'm surprised I
7 don't have a note of that earlier.

8 **MR. NEVILLE:** Yes. Fair enough.

9 Now, we don't need to go to it specifically
10 but we -- I just want to touch on it quickly.

11 Arising out of that meeting there's a
12 follow-up letter the next day which, for the record,
13 Commissioner, is our Exhibit 2830, where you give specific
14 heads-up instructions to Inspector Hall on the video issue.

15 **MR. McCONNERY:** Yes.

16 **MR. NEVILLE:** And this is flowing in large
17 measure from statements Mr. Guzzo had made in the
18 legislature about having seen videos and knowing someone
19 who purportedly had them.

20 **MR. McCONNERY:** Yes.

21 **MR. NEVILLE:** And among the instructions you
22 gave Inspector Hall was to -- because he told you that in
23 terms of the citizen's committee, the person likely to be
24 interviewed was Mr. Chisholm?

25 **MR. McCONNERY:** Yes.

1 **MR. NEVILLE:** And he went and did so and we
2 know there's a letter where he sends you many things,
3 including the Chisholm interview ---

4 **MR. McCONNERY:** Yes.

5 **MR. NEVILLE:** --- where Mr. Chisholm
6 disclaims any knowledge, let alone possession of any such
7 videos?

8 **MR. McCONNERY:** Without looking at it, I
9 think that fairly catches it.

10 **MR. NEVILLE:** Well, we've had that evidence
11 ---

12 **MR. McCONNERY:** Yes.

13 **MR. NEVILLE:** --- from Inspector Hall, just
14 so you know.

15 What I just wanted to refer you to -- I'm
16 not sure it's an exhibit, Commissioner. The Document
17 Number is 130322. It's a series of notes by Mr. McConnery
18 from the 19th to the 27th of July. And I don't recall
19 getting an exhibit number on it but that may be my mistake.

20 **MR. McCONNERY:** This concern about the
21 videos, I might say was one of the reasons I asked C-8 the
22 very specific question I did when we were talking.

23 **MR. NEVILLE:** Yeah, that's why I touched on
24 that earlier when we discussed him and that portion of the
25 interview.

1 **MR. McCONNERY:** Yes.

2 **MR. NEVILLE:** I think I did suggest to you
3 that it was an adjunct to this issue.

4 **MR. McCONNERY:** Yes.

5 **THE COMMISSIONER:** Thank you.

6 Exhibit 3092 is notes with the first date of
7 July 19th, 2001.

8 **--- EXHIBIT NO./PIÈCE NO. P-3092:**

9 (130322) - Notes of Lorne McConnery dated
10 from July 19, 2001 through July 27, 2001

11 **MR. NEVILLE:** And those are your notes, Mr.
12 McConnery?

13 **MR. McCONNERY:** Yes, they are.

14 **MR. NEVILLE:** Okay. And we know from -- and
15 I won't again refer, Commissioner, you to it directly --
16 but we know that on the 25th of July is when you get the
17 letter from Mr. Hall. It encloses the many things,
18 including the Chisholm interview.

19 I want to refer you mid-page. Prior to the
20 letter of the 25th of July, you have a telephone discussion
21 with Mr. Hall about these updates that you've asked him to
22 do, July 24th, 2001?

23 **MR. McCONNERY:** July 24th, yes.

24 **MR. NEVILLE:** And you have a telephone
25 conversation with him and he advised you as follows:

1 "Guzzo says no videos that he has seen
2 - that he was 'grandstanding' and would
3 respond to P. Hall in writing."

4 **MR. McCONNERY:** Yes.

5 **MR. NEVILLE:** So you took that to mean that
6 this kafuffle from the legislature and the claims he'd made
7 there, he describes to Mr. Hall as "grandstanding"?

8 **MR. McCONNERY:** That's the way Pat Hall
9 described it to me.

10 **MR. NEVILLE:** Yes, and that's in quotes.

11 **MR. McCONNERY:** Yes.

12 **THE COMMISSIONER:** So that would be about
13 double-hearsay.

14 **MR. McCONNERY:** Double-hearsay. It was --
15 what I was attempting to quote was Pat Hall.

16 **THE COMMISSIONER:** Right.

17 **MR. NEVILLE:** Okay. That's what I was --
18 maybe I should have asked you that.

19 **MR. McCONNERY:** Yeah.

20 **MR. NEVILLE:** That was his word?

21 **MR. McCONNERY:** His word.

22 **MR. NEVILLE:** All right. That's a good
23 point. Thank you. Good point.

24 All right. Let's look briefly -- I want to
25 just touch on for a few questions the testimony in front of

1 Justice Chilcott with Mr. Dunlop. You called him as a
2 witness?

3 **MR. McCONNERY:** Yes, I did. Yes, right.

4 **MR. NEVILLE:** And we have from the other day
5 as an exhibit, 3078. If you could just perhaps turn that
6 up briefly. These are your notes of an interview you did
7 with him on the 29th of April.

8 **MR. McCONNERY:** Yes.

9 **MR. NEVILLE:** Can you confirm for us, Mr.
10 McConnery, that in addition to the notes that we see here
11 by yourself, initialled in the bottom right by Mr. Dunlop,
12 Detective Constable Genier was present and also making
13 notes?

14 **MR. McCONNERY:** One of the officers.

15 **MR. NEVILLE:** Yes.

16 **MR. McCONNERY:** And Kevin Phillips.

17 **MR. NEVILLE:** Yes. And do you recall the
18 fact that Mr. Dunlop wasn't happy about the fact that
19 Genier was taking notes? Does that ring a bell?

20 **MR. McCONNERY:** Now that you say it, it
21 rings a bell. I'm not quite sure how that issue developed.

22 **MR. NEVILLE:** Do you recall whether the
23 issue came up about whether he would initial or sign
24 Genier's notes as opposed to yours?

25 **MR. McCONNERY:** Yes, I do. Yes, he wouldn't

1 sign the officer's.

2 MR. NEVILLE: That's what I'm getting at.

3 And that's why he came to end up signing yours?

4 MR. McCONNERY: Can I read the notes ---

5 MR. NEVILLE: Absolutely.

6 MR. McCONNERY: --- to see if I have
7 anything on that issue.

8 MR. NEVILLE: I don't believe you do.

9 (SHORT PAUSE/COURTE PAUSE)

10 MR. McCONNERY: I don't have any notes on
11 it. I do recall asking him to initial my notes and I
12 believe I told him that I would be supplying them to
13 counsel, and that was because I was going to call him. I
14 had no belief in what he might say.

15 When you look at these notes, I think it's
16 clear I really didn't ask him anything about the series of
17 events. I was trying to get a picture of his mindset. I
18 let him say most of the things he wanted to say.

19 MR. NEVILLE: Yes.

20 MR. McCONNERY: At some point there was an
21 issue and I asked him to sign my notes. The officer was
22 making notes. I said we would supply those as well, and he
23 didn't want to sign them.

24 MR. NEVILLE: All right.

25 MR. McCONNERY: And whether or not it's

1 right at the end or not, I don't know.

2 **MR. NEVILLE:** Fair enough.

3 Now, you called him to testify and I just
4 want to confirm a couple of things in terms of his duration
5 in the witness box.

6 And, Commissioner, it can be checked by
7 looking at the volumes themselves, sir.

8 But his evidence in-chief appears in what
9 is, Mr. Commissioner, our Exhibit 720, which went in during
10 the testimony of Charles Bourgeois. We don't necessarily
11 access it. And his testimony started on May the 1st in the
12 afternoon right after you had called or we had completed
13 the evidence of Staff Sergeant Durochie.

14 And his evidence was for the balance of that
15 afternoon, and it continued the next day with more in-chief
16 by yourself and cross-examination by myself, which is found
17 in Volume 721, and his evidence was completed by
18 approximately 3:30 that day. So that he was in the witness
19 box about a day, spread over two days.

20 **MR. McCONNERY:** Okay.

21 **MR. NEVILLE:** Fair enough?

22 **MR. McCONNERY:** Yes.

23 **MR. NEVILLE:** He wasn't in the witness box
24 in front of Justice Chilcott two and three days duration.
25 It was actually about a day spread over two days.

1 **MR. McCONNERY:** I took two days, yes.

2 **MR. NEVILLE:** Is that fair enough?

3 **MR. McCONNERY:** Yes.

4 **MR. NEVILLE:** And ---

5 **MR. McCONNERY:** Not nearly as long as I've
6 been in the box.

7 **MR. NEVILLE:** Touché.

8 Among other things, am I correct that he
9 indicated, and it's reflected indeed right in your notes
10 that we just touched upon, that he did not trust Inspector
11 Smith?

12 **MR. McCONNERY:** Yes, yes, it is reflected in
13 my notes.

14 **MR. NEVILLE:** And in addition, indicated he
15 did not care for Detective Inspector Hall because in his
16 words, he was terse?

17 **MR. McCONNERY:** I don't remember that.

18 **MR. NEVILLE:** Okay. Do you have a clear
19 recollection of some of the things he actually testified
20 to?

21 **MR. McCONNERY:** I would say not.

22 **MR. NEVILLE:** Okay. So we have the
23 transcript. It's reflected there.

24 **THE COMMISSIONER:** Yeah.

25 **MR. NEVILLE:** I was going to suggest to you

1 that, among other things, he confirmed that the many
2 serious allegations he had brought forward, for example,
3 against Father MacDonald with C-8, with Father MacDonald
4 with Robert Renshaw, the Bishop, Murray MacDonald, that he,
5 contrary to what a careful, detailed policeman does in
6 checking facts and leads, had done none.

7 **THE COMMISSIONER:** Well, then you'll have to
8 show me that.

9 **MR. NEVILLE:** Well, I will do that then.
10 All right.

11 It's Exhibit 721, Document 120899.

12 **THE COMMISSIONER:** Seven-twenty-one (721), I
13 have it. What page?

14 **MR. NEVILLE:** It would start, Commissioner -
15 - and I'm going to give you the page numbers that are from
16 the transcript themselves, like for example, if you look at
17 the top, 504.

18 **THE COMMISSIONER:** Hang on a second.

19 **MR. NEVILLE:** I hope it's the right one.
20 I'm using -- I took mine from Exhibit Number -- sorry,
21 Document Number 120899.

22 **THE COMMISSIONER:** Yeah, we're on the same
23 page.

24 **MR. NEVILLE:** And the top centre is the
25 actual court reporter's numeration.

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

2 **MR. NEVILLE:** I don't know if Mr. McConnery
3 has his.

4 **MR. McCONNERY:** Yes.

5 **MR. NEVILLE:** So if we look at page 504-505
6 ---

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

8 **MR. NEVILLE:** --- what's explored with him
9 is the need for a police officer doing an investigation to
10 check facts out before laying charges. Do you see at the
11 bottom ---

12 **MR. McCONNERY:** Yes.

13 **MR. NEVILLE:** "When you start an
14 investigation, you have a suspect, do
15 you run right out and make the
16 allegation, lay a charge, or do you
17 check it..."

18 And then it carries on.

19 **MR. McCONNERY:** Yes, I agree.

20 **MR. NEVILLE:** He says:

21 "You have to gather evidence."

22 The next question talks about:

23 "You go check out the background and
24 the details?"

25 He says:

1 "You do as much checking as you can."
2 He confirms that it's important. And the
3 next question:

4 "You don't want to create the
5 embarrassment of charging an innocent
6 person because that would be a bad
7 thing and the like."

8 Right?

9 **MR. McCONNERY:** Yes.

10 **MR. NEVILLE:** Okay. So why don't we look
11 then at page 507?

12 **THE COMMISSIONER:** Okay.

13 **MR. NEVILLE:** It starts at about line 4.

14 **MR. McCONNERY:** M'hm.

15 **MR. NEVILLE:** We'll come back to whatever
16 the previous topic was. Let's move back to Mr. C-8 and his
17 other allegations.

18 "And what I've been asking you about
19 how a policeman does a proper
20 investigation, one of the allegations
21 made was of sexually abusing him on the
22 day of his father's funeral."

23 He says:

24 "Yes.

25 There is a very specific day, very

1 specific year, et cetera, that could be
2 checked. There are records?"

3 He confirms that's correct and confirm the various places
4 one could go to check things like that. And about two
5 questions down, it was asked did he check any of those
6 details of C-8's story, and he said he did not.

7 **MR. McCONNERY:** Yes.

8 **MR. NEVILLE:** Right?

9 Okay. Keep going to the next page.

10 **THE COMMISSIONER:** Okay. So he didn't check
11 the funeral?

12 **MR. NEVILLE:** Right.

13 **THE COMMISSIONER:** He didn't check -- okay,
14 so we've got that. Yeah.

15 **MR. NEVILLE:** Well, it goes through -- I'm
16 going to go on more and more, Commissioner. There's more
17 and more details of this particular allegation that he's
18 cross-examined on.

19 **THE COMMISSIONER:** Okay. No, but I've got a
20 flavour for what you're saying. Okay.

21 **MR. NEVILLE:** Okay?

22 **THE COMMISSIONER:** That's good.

23 **MR. NEVILLE:** And he's referred, Mr.
24 McConnery, in the middle of the page to the bottom of the
25 fact that the records, in fact, when checked, confirm that

1 the funeral was not said by Father MacDonald, that there
2 were documents placing Father MacDonald at the Senate of
3 the Priests at 10 o'clock, the same time as the funeral.
4 And these were the kinds of things I asked you about
5 earlier when you examined his evidence and had your views
6 about it even before meeting him.

7 This was the kind of thing you had seen in
8 C-8's testimony?

9 **MR. McCONNERY:** At the preliminary hearing.

10 **MR. NEVILLE:** Yes. No, no, I agree.

11 **MR. McCONNERY:** Yes.

12 **MR. NEVILLE:** For sure.

13 **THE COMMISSIONER:** Okay.

14 **MR. NEVILLE:** And at the bottom we see:

15 "You went on with an allegation against
16 Father MacDonald..."

17 The next page:

18 "...on a very specific date and checked
19 nothing."

20 Answer:

21 "I just took his statement.

22 Q. You checked nothing?

23 A. Right.

24 Q. Is that how a police officer
25 conducts an investigation normally?

1 A. No."

2 And then we deal with Mr. MacDonald.

3 And do you recall, Mr. McConnery, that
4 I brought out from Mr. Dunlop that he and Mr. MacDonald had
5 a fairly longstanding personal relationship in addition to
6 a professional one as Crown and police officer, that they
7 hunted together and the like. Do you remember that?

8 **MR. McCONNERY:** I do recall that.

9 **MR. NEVILLE:** And that he put forward the
10 allegations against Mr. MacDonald in the Statement of
11 Claim, never having even spoken to him?

12 **MR. McCONNERY:** I agree.

13 **MR. NEVILLE:** Do you agree with me, if we
14 look at page 534 ---

15 **THE COMMISSIONER:** Yes, but suing somebody
16 is different than a police officer laying charges and the
17 duty that an officer has in laying charges -- in doing an
18 investigation.

19 **MR. NEVILLE:** Well, in the case of C-8, sir
20 ---

21 **THE COMMISSIONER:** No, C-8 is quite correct.

22 **MR. NEVILLE:** Right.

23 **THE COMMISSIONER:** No, I've got that. But
24 with Murray MacDonald, it's a little different. I mean,
25 you sue someone at your own peril. You can be awarded

1 costs or a counterclaim.

2 MR. NEVILLE: Yes. I think the point, sir,
3 was the person that was sued and what the relationship was
4 with ---

5 THE COMMISSIONER: M'hm.

6 MR. KLOEZE: Sorry, Mr. Commissioner, I
7 don't believe that Murray MacDonald was a defendant in Mr.
8 Dunlop's ---

9 MR. NEVILLE: No, my friend is quite right.

10 THE COMMISSIONER: Yeah, but you're the one
11 who said a lawsuit.

12 MR. NEVILLE: No, I said he was named in the
13 Statement of Claim.

14 THE COMMISSIONER: Ah, okay.

15 MR. NEVILLE: Not in the Style of Cause.

16 THE COMMISSIONER: Okay.

17 MR. NEVILLE: Mr. Kloeze is quite right.

18 THE COMMISSIONER: M'hm.

19 MR. NEVILLE: He is discussed in the
20 Statement of Claim or the Amended Statement, not in the
21 Style of Cause.

22 THE COMMISSIONER: Even less then.

23 MR. NEVILLE: So just dealing with another
24 topic, page 534 ---

25 THE COMMISSIONER: So what we've done, I

1 just asked you to give me ---

2 **MR. NEVILLE:** Sorry.

3 **THE COMMISSIONER:** --- some flavour because
4 I didn't understand what the scope of your question was.

5 So now you've explained to me and I've seen
6 an example of what you meant with respect to C-8, so you
7 can carry on.

8 **MR. NEVILLE:** Fair enough, sir.

9 Maybe Mr. McConnery may simply recall, and
10 I'll just touch on it -- do you recall, Mr. McConnery, Mr.
11 Dunlop being cross-examined in relation to the complainant
12 Robert Renshaw?

13 **MR. McCONNERY:** Yes.

14 **MR. NEVILLE:** And that Robert Renshaw, in
15 fact, when presented with a photo spread, had identified
16 two different people as Father MacDonald, one of whom was
17 Claude Shaver?

18 **MR. McCONNERY:** Yes.

19 **MR. NEVILLE:** All right.

20 Do you recall Mr. Dunlop being asked -- and
21 this will be found, Commissioner, at page 559 of the same
22 volume -- that as of that date, May 2nd, 2002, he was not
23 able to say then, even then, that the authorities had
24 everything that should have been had?

25 **MR. McCONNERY:** Oh, I very clearly recall

1 his evidence in that regard.

2 MR. NEVILLE: I remember putting it to him,
3 "Even as of today you cannot tell us that what should be
4 available is?"

5 MR. McCONNERY: Yes.

6 MR. NEVILLE: Okay. All right.

7 Perhaps we'll just move on then to a
8 different topic very briefly.

9 THE COMMISSIONER: M'hm.

10 MR. NEVILLE: The complainant, Albert
11 Lalonde, that you were asked to give an opinion on ---

12 MR. McCONNERY: Yes.

13 MR. NEVILLE: Right? And this was the task
14 you were given having, you thought, completed your Cornwall
15 duties, and it was brought to you by Detective Carroll?

16 MR. McCONNERY: Yes.

17 MR. NEVILLE: And I'm not going to go into
18 the details because it's been done before and we have the
19 various statements and the various contradictions in them.
20 I just want to have you confirm that you wrote opinion
21 letters to two police forces, actually, one to Jeff Carroll
22 for his portion of the investigation and one to the OPP for
23 theirs.

24 And let me just show you.

25 MR. McCONNERY: Okay.

1 **MR. NEVILLE:** I think we looked,
2 Commissioner, am I not correct, at 1704, the Carroll
3 letter, earlier?

4 **THE COMMISSIONER:** Yes.

5 **MR. NEVILLE:** Can we have Mr. McConnery just
6 confirm Exhibit 2266?

7 **THE COMMISSIONER:** Okay.

8 **(SHORT PAUSE/COURTE PAUSE)**

9 **MR. NEVILLE:** This would be your opinion
10 letter for what I would call the OPP portion of the same
11 investigation. The Commissioner has heard that it was kind
12 of a dual investigation because the allegations included an
13 event outside the city limits and events inside the city
14 limits.

15 So in effect, you had two police forces to
16 give an opinion as asked for, and this is the other of the
17 opinions?

18 **MR. McCONNERY:** I wouldn't have remembered
19 that, but clearly ---

20 **THE COMMISSIONER:** There it is.

21 **MR. NEVILLE:** There you go.

22 Mr. McConnery, the temperature outside is
23 about -30. I understand that rather than being with us
24 today much as you've enjoyed your time there's somewhere
25 warm you'd rather be?

1 **MR. McCONNERY:** Yes.

2 **MR. NEVILLE:** Well, hopefully, we'll get you
3 there soon. Thanks very much.

4 **MR. McCONNERY:** Thank you.

5 **THE COMMISSIONER:** When are you leaving?
6 When are you supposed to leave?

7 **MR. McCONNERY:** This morning at 9:30.

8 **(LAUGHTER/RIRES)**

9 **THE COMMISSIONER:** Well, it might not be
10 tomorrow at 9:30 either.

11 Okay, let's see. Mr. Chisholm -- he's not
12 going to ask any questions.

13 So I see Ms. Robitaille coming up.

14 So can we get an idea of time? Ms.

15 Robitaille, how long do you think you're going to be?

16 **MS. ROBITAILLE:** I anticipate being about 25
17 minutes.

18 **THE COMMISSIONER:** All right.

19 And Ms. Levesque?

20 **MS. LEVESQUE:** Five minutes.

21 **THE COMMISSIONER:** Five minutes.

22 Mr. Manderville?

23 **MR. MANDERVILLE:** Perhaps 40 minutes, sir.

24 **THE COMMISSIONER:** We're not finishing
25 tonight.

1 Ms. Lahaie?

2 **MS. LAHAIE:** Twenty (20) to 30 minutes.

3 **THE COMMISSIONER:** Okay. Mr. Carroll?

4 **MR. CARROLL:** Probably not more than 10
5 minutes.

6 **THE COMMISSIONER:** Ten (10) minutes. Mr.
7 Kloeze?

8 **MR. KLOEZE:** Probably about 20 minutes, sir.

9 **THE COMMISSIONER:** All right.

10 Ms. Simms?

11 **MS. SIMMS:** I don't think any time.

12 **THE COMMISSIONER:** Thank you.

13 All right. Let's go, Ms. Robitaille.

14 **MS. ROBITAILLE:** Thank you, Mr.
15 Commissioner.

16 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.
17 ROBITAILLE:

18 **MS. ROBITAILLE:** Good afternoon, Mr.
19 McConnery. My name is Danielle Robitaille and I'm counsel
20 to Jacques Leduc here at the Inquiry.

21 **MR. McCONNERY:** Okay.

22 **MS. ROBITAILLE:** If we could start by
23 pulling up Exhibit 2651. This is the factual overview that
24 we've been reviewing with you over the last couple of days.

25 **MR. McCONNERY:** Okay.

1 **MS. ROBITAILLE:** And if we could turn to
2 page 50 to scenario 3?

3 **MR. McCONNERY:** Okay. Twenty -- I'm not
4 sure I have that one, but ---

5 **MS. ROBITAILLE:** Oh!

6 **THE COMMISSIONER:** Do you ---

7 **MR. McCONNERY:** Should I have it?

8 **THE COMMISSIONER:** Yeah, I think so. What
9 exhibit number again -- 30?

10 **MS. ROBITAILLE:** Twenty-six fifty-one
11 (2651).

12 **MR. McCONNERY:** I don't have it.

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

14 **THE COMMISSIONER:** Yeah, I've got it.

15 **MR. McCONNERY:** The page again?

16 **MS. ROBITAILLE:** Page 50.

17 **MR. McCONNERY:** Page 50, sorry, yes.

18 **MS. ROBITAILLE:** Scenario 3.

19 **MR. McCONNERY:** Yes.

20 **MS. ROBITAILLE:** Mr. McConnery, you've
21 explained to us -- do you have it there?

22 **MR. McCONNERY:** Yes.

23 **MS. ROBITAILLE:** You've explained to us that
24 basically when you get to scenario 3, you've kind of
25 stripped away the Leroux allegations, if I can call them

1 that.

2 **THE COMMISSIONER:** What do you mean by
3 "stripped away"?

4 **MS. ROBITAILLE:** Mr. McConnery has explained
5 to us that he approached the matter by looking firstly at
6 the Leroux allegations.

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

8 **MS. ROBITAILLE:** And then, secondly, looking
9 at what remains in the evidence if one discounts Mr.
10 Leroux's allegations. Do I have that right?

11 **THE COMMISSIONER:** On the conspiracy issue.

12 **MS. ROBITAILLE:** That's right.

13 **THE COMMISSIONER:** Right. Okay, okay.

14 **MR. McCONNERY:** Yes.

15 **MS. ROBITAILLE:** And so you're basically
16 asking yourself the question that, given that Mr. Peter
17 Griffiths, as he then was, reviewed the obstruction of
18 justice brief in '95 or '94, what has changed since then;
19 right?

20 **MR. McCONNERY:** I think that's a fair way to
21 put it.

22 **MS. ROBITAILLE:** And in this little
23 paragraph in scenario 3, you identify two changes since
24 '94, right?

25 **MR. McCONNERY:** Yes.

1 **MS. ROBITAILLE:** The first being that Mr.
2 Leduc and Mr. MacDonald have subsequently been charged with
3 sexual offences?

4 **MR. McCONNERY:** Correct.

5 **MS. ROBITAILLE:** And the second, that the
6 OPP have re-interviewed Malcolm MacDonald specifically in
7 1999 and that he has raised some concerns about Leduc,
8 particularly in regards to this \$25,000 payment?

9 **MR. McCONNERY:** Yes, those were the two
10 things I was -- excuse me -- focused on.

11 **MS. ROBITAILLE:** So I just want to talk to
12 you about those two things.

13 The first change of circumstance is the fact
14 of the charges against Mr. Leduc. Now, that fact can't
15 figure into your analysis without presuming the guilt of
16 Mr. Leduc in relation to those charges, right?

17 **MR. McCONNERY:** Can you repeat that?

18 **MS. ROBITAILLE:** The fact that Mr. Leduc has
19 been charged can't figure into the analysis in any
20 meaningful way unless you presume that he's guilty of those
21 allegations.

22 **MR. McCONNERY:** No, I don't agree with that.
23 He could still have the motivation not to have complains of
24 complainants come forward even if he thought he would be
25 acquitted at trial.

1 **MS. ROBITAILLE:** I'm just going to follow
2 your reasoning for a second.

3 In 1993, at the time that the release is
4 negotiated, there's absolutely no allegation made against
5 Mr. Leduc.

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

7 **MS. ROBITAILLE:** His motive for "covering
8 up" the Silmsen complaint could only be a motive if he was,
9 in fact, someone who had engaged in improper sexual
10 activities and that he knew that this was something that he
11 wanted to not stir the pot.

12 Am I making any sense?

13 **MR. McCONNERY:** True.

14 **MS. ROBITAILLE:** And so if you presume that
15 Mr. Leduc is innocent of the allegations that were made
16 against him subsequently, the motive reasoning doesn't
17 follow.

18 **MR. McCONNERY:** If I presume he's innocent
19 it eliminates motive.

20 **MS. ROBITAILLE:** That's right.

21 **MR. McCONNERY:** Reduce it; no, I wouldn't
22 say it eliminates it. It reduces it.

23 **MS. ROBITAILLE:** Can you explain to me how
24 the motive analysis works otherwise?

25 **MR. McCONNERY:** If a person feels, rightly

1 or wrongly, he's going to be named in some pretty
2 scandalous behaviour, which may amount to a criminal
3 offence, if he feels he's not guilty, he may still have a
4 motive if he knows he's going to be named to quieten that
5 source of information.

6 **MS. ROBITAILLE:** Okay. Mr. McConnery, what
7 I'm saying is he didn't know he was going to be named
8 because the allegations weren't anywhere on the horizon.
9 I'm not sure if you're aware of that fact.

10 **THE COMMISSIONER:** Of what fact?

11 **MS. ROBITAILLE:** The fact that in 1993 there
12 was no allegation anywhere in the public sphere or
13 otherwise.

14 **THE COMMISSIONER:** No. We had no evidence
15 to the contrary of what you just said.

16 **MR. McCONNERY:** No, but he knows what he is
17 doing.

18 **MS. ROBITAILLE:** If you presume that Mr.
19 Leduc is innocent of the allegation, the sexual allegation
20 ---

21 **MR. McCONNERY:** Yes.

22 **MS. ROBITAILLE:** --- it gives him no motive
23 to cover up the Silmsler settlement. Do you agree with
24 that?

25 **MR. McCONNERY:** If I agree -- no, I don't.

1 **MS. ROBITAILLE:** I'm going to move on.
2 You'll agree with me on this one.

3 **(LAUGHTER/RIRES)**

4 **MS. ROBITAILLE:** Certainly ---

5 **THE COMMISSIONER:** No, but in fairness to
6 everybody here ---

7 **MS. ROBITAILLE:** Yes.

8 **THE COMMISSIONER:** --- the idea with respect
9 to whether -- the fact that he was charged, all right?

10 **MS. ROBITAILLE:** That's right.

11 **THE COMMISSIONER:** I don't think the
12 presumption -- it's whether or not that, for an
13 investigative tool, this changes the scenario and that
14 people can maybe investigate further or do something in
15 that regard.

16 I don't know that -- Mr. McConnery certainly
17 wasn't saying the fact that he was charged meant that he
18 was guilty and, therefore, this whole analysis. I think it
19 was just kind of opening a door to some more investigation.

20 **MS. ROBITAILLE:** That's not how I took his
21 evidence, but I'm going to move on.

22 **THE COMMISSIONER:** Oh, no, well, I know you
23 wouldn't.

24 **MR. McCONNERY:** Well, I think what it says
25 is it should be looked at again with the benefit of what we

1 now know about Mr. Leduc or what we believe we know about
2 Mr. Leduc.

3 **MS. ROBITAILLE:** That's right. Thank you.

4 **MR. McCONNERY:** Fair enough.

5 **MS. ROBITAILLE:** Certainly, any evidence
6 relating to sexual abuse allegations against Mr. Leduc
7 would be inadmissible in the context of an obstruction of
8 justice prosecution because it would be bad character
9 evidence, right?

10 **MR. McCONNERY:** I don't agree, no. It may
11 well be bad character evidence, but if you have a head of
12 admissibility such as motive you could certainly fashion an
13 argument for its admission.

14 **MS. ROBITAILLE:** There may be ---

15 **MR. McCONNERY:** I'm not saying you're going
16 to be -- the Crown will be successful, but it's -- I
17 wouldn't concede that the crime could never go there.

18 **MS. ROBITAILLE:** But it's unlikely that
19 allegations relating to sexual abuse in the context of an
20 obstruct justice proceeding would fit within the Handy or
21 the Shearing framework, that that would be a very difficult
22 case for the Crown to make; you would agree with me?

23 **MR. McCONNERY:** No, I wouldn't.

24 **MS. ROBITAILLE:** Okay. I was wrong.

25 **THE COMMISSIONER:** He'll agree with you on a

1 third point, I'm sure.

2 **MS. ROBITAILLE:** You're sure? I'm glad
3 you're sure, Mr. Commissioner.

4 **MR. McCONNERY:** Handy came out of my office,
5 actually. It's not similar fact evidence, but I mean it's
6 evidence of discreditable conduct. But it's evidence that
7 could have powerful impact on the mindset and the theory of
8 the Crown about proving the motivation for Leduc to be
9 party to drafting that agreement to prevent Silmsner's
10 complaint going forward.

11 Is it going to be a successful argument?
12 That's for a court to determine.

13 Is it an argument that could be made? I
14 think it could be made.

15 **MS. ROBITAILLE:** And it's one that you'd
16 advance, I take it?

17 **THE COMMISSIONER:** Well, I think it's all
18 hypothetical in the sense that ---

19 **MR. McCONNERY:** Yes.

20 **THE COMMISSIONER:** --- he's looked at
21 Scenario Number 3. He put his pondering into it and he did
22 not -- you did not order further investigations or anything
23 like that. So I think that's a pretty determinative
24 determination of the issue right there.

25 **MS. ROBITAILLE:** Let's move on to the second

1 kind of change of circumstances then ---

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

3 **MS. ROBITAILLE:** --- which is that \$25,000
4 payment.

5 Yesterday, I believe you described the
6 statement and you've reviewed the statement recently,
7 Malcolm MacDonald's 1999 statement?

8 **MR. McCONNERY:** Yes.

9 **MS. ROBITAILLE:** You described it as
10 disjointed. Do you recall that?

11 **MR. McCONNERY:** Yeah. Whether or not that's
12 an appropriate word, it's a very difficult statement.
13 There are lots of gaps, lots of inaudibles, and in fact
14 almost more telling is that Officer Dupuis, doing the
15 interview, he says, "Now, you said the following" because
16 you couldn't, in the transcript, really attribute the words
17 to MacDonald until Dupuis repeated them on occasion.

18 **MS. ROBITAILLE:** That's right.

19 **MR. McCONNERY:** And that's why I said I
20 thought that I likely talked to Dupuis about it. So I had
21 that benefit.

22 But yes, I found the \$25,000 portion -- that
23 Leduc seemed so prepared to make that portion of the
24 payment on the words of that statement, I found that
25 troubling.

1 **MS. ROBITAILLE:** You were taken to certain
2 portions of that statement, and I'd like to take you to
3 other portions to flesh out exactly what Mr. MacDonald
4 seems to be saying in this statement. It's Exhibit 3057.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **MR. McCONNERY:** Yes.

7 **MS. ROBITAILLE:** So Mr. McConnery, I went
8 through the statement with a view of answering kind of the
9 five "W"s in regards to this \$25,000 statement; when, why,
10 who.

11 And if we can just turn to certain portions,
12 the first portion I'd like to turn to is at page 23 of 33,
13 Bates page 145.

14 **MR. McCONNERY:** One-forty-five (145), yes.

15 **MS. ROBITAILLE:** Yes.

16 **MR. McCONNERY:** Okay.

17 **MS. ROBITAILLE:** You see at the start there:

18 "MacDONALD: Oh no, this would be
19 shortly after the news hit the paper.
20 You know, the Bishop had a press
21 conference -- had his conference -- a
22 press conference."

23 And then Dupuis says:

24 "This would have been, uh, '94, I
25 believe?"

1 And MacDonald says:

2 "Yeah, somewhere in there. It was
3 sometime shortly after that.
4 He's...[inaudible]...and...(inaudible).
5 ..what to do, sure what was going on.
6 That was -- I'm sure it was Leduc or
7 somebody called on his...(inaudible).
8 Uh, he was involved. He was supposed
9 to put up the...(inaudible)...share
10 \$20,000-\$25,000.

11 DUPUIS: And why would Mr. Leduc want
12 to put \$25,000 up..."

13 MacDonald answers:

14 **THE COMMISSIONER:** Whoa, "if he wasn't?"

15 **MS. ROBITAILLE:** "...if he wasn't?"

16 MacDonald answers:

17 "That was the easy way out for
18 him...(inaudible). It's costing him
19 \$100,000 now to defend the case. Would
20 have been cheaper to pay the \$20,000 --
21 the \$25,000 then."

22 And if we go to page 31, which is Bates 153
23 -- it's the sixth line down -- Dupuis asks:

24 "He was going to pay \$25,000?"

25 MacDonald answers:

1 "Uh, apparently...(inaudible)...he did.

2 DUPUIS: To Silmser?

3 MacDONALD: Well, I guess probably,
4 yeah.

5 DUPUIS: Or somebody?

6 MacDONALD: To somebody, yeah.

7 DUPUIS: And who were the other, uh...

8 MacDONALD: I don't remember the names
9 that were made, uh, mentioned, uh, uh,
10 and he probably just, uh, 'Here's the
11 grand plan, you know. You want to save
12 your ass now. Just pay the money.'
13 Yeah.

14 DUPUIS: And he made this call to you
15 personally, I take -- I assume?

16 MacDONALD: Now you've got me thinking.
17 I don't know if he made it or someone
18 else made it saying it's going to be
19 done. Uh, yeah, I think it was
20 probably gonna be done, but I
21 understand from the same source,
22 whoever it was, that it was done by
23 him."

24 And then the last little portion I want to
25 take you to is at page 22, Bates 144.

1 **MR. McCONNERY:** One-forty-four (144), yes.

2 **THE COMMISSIONER:** We're going back.

3 **MR. McCONNERY:** Okay.

4 **MS. ROBITAILLE:** About the middle of the
5 page there, Dupuis asks:

6 "When did this happen?"

7 MacDonald answers:

8 "This was sometime after the first
9 agreement was thrown, like brought to
10 the attention of the police."

11 Do you see the reference there to the first
12 agreement?

13 **MR. McCONNERY:** Yes.

14 **MS. ROBITAILLE:** Now, with that in mind, Mr.
15 McConnery, were you aware that immediately after Mr. Leduc
16 was made aware of the contents of Clause 2 of the
17 settlement he withdrew as counsel for the Diocese? Were
18 you aware of that?

19 **MR. McCONNERY:** No.

20 **MS. ROBITAILLE:** Were you aware that Mr.
21 Silmsler, subsequent to the agreement becoming public, sued
22 the Diocese and Father MacDonald and that there was civil
23 litigation arising?

24 **MR. McCONNERY:** I think I was aware of that.
25 I think I was aware of the pleadings. I'm not sure now if

1 discoveries had been held by the time I was involved. I
2 think reviewed the discoveries, if they had been held.

3 **MS. ROBITAILLE:** And you were aware then
4 that Malcolm MacDonald and Mr. Leduc were a third party by
5 the Diocese in that litigation?

6 **MR. McCONNERY:** Yes, I recall that.

7 **MS. ROBITAILLE:** Mr. Commissioner, there's a
8 new document ---

9 **MR. McCONNERY:** I'm sorry. You read all of
10 those to me. I take it you don't want me to comment on
11 them?

12 **MS. ROBITAILLE:** I'd like you to just keep
13 them in your mind as we review some other documents.

14 **MR. McCONNERY:** Okay.

15 **THE COMMISSIONER:** All right.

16 So now you wanted us to go to a new
17 document?

18 **MS. ROBITAILLE:** Yes, that's right, Mr.
19 Commissioner. It's Document 738189.

20 **THE COMMISSIONER:** Thank you.

21 Exhibit 3093 is the letter sent to a number
22 of people, the first one being Bryce Geoffrey, jus to
23 identify the letter, dated July 8th, 1996 and signed by
24 Michael Chambers.

25 --- **EXHIBIT NO./PIÈCE NO. 3093:**

1 (738189) - Letter from Michael Chambers to
2 Bryce Geoffrey and various others re:
3 MacDonald - Third Party Action dated 08 Jul
4 96

5 **MS. ROBITAILLE:** Mr. McConnery, I can tell
6 you that this is a letter from Malcolm MacDonald's counsel
7 on the civil litigation that we've just spoken about to all
8 counsel involved in that litigation it reads:

9 "Enclosed herewith please find our
10 offer to contribute on behalf of the
11 third party, Malcolm MacDonald. I
12 understand that an offer to contribute
13 in the same amount is about to come or
14 has come from the third party Jacques
15 Leduc. With \$25,000 now on the table I
16 would ask all parties to intently
17 address the issue of possible
18 settlement of this matter before
19 further costs of this proceeding are
20 incurred."

21 Were you aware that in 1996 Malcolm
22 MacDonald and Jacque Leduc made formal offers to contribute
23 to the settlement of David Silmsers claim against the
24 Diocese and Father MacDonald?

25 **MR. McCONNERY:** I certainly don't think I've

1 seen that letter before. I'm not sure I can answer that
2 one.

3 **MS. ROBITAILLE:** You can't tell us now
4 whether you knew of the offer to contribute?

5 **MR. McCONNERY:** I would say I didn't but I
6 can't be really concise.

7 **THE COMMISSIONER:** But we don't have the
8 offer to contribute here in the file so ---

9 **MS. ROBITAILLE:** I can turn to that, Mr.
10 Commissioner.

11 **THE COMMISSIONER:** Okay. I just want to
12 know basically was it \$25,000 each or \$25,000 -- \$12,500
13 each?

14 **MS. ROBITAILLE:** It's \$12,500 each.

15 **THE COMMISSIONER:** Okay.

16 **MS. ROBITAILLE:** And for your reference, Mr.
17 Commissioner, the exhibit number is 1929.

18 **THE COMMISSIONER:** Great. Thank you.

19 **MS. ROBITAILLE:** And the Bates are 716416 to
20 69, which include both offers to contribute. And
21 ultimately the offers to contribute were withdrawn and --
22 at least in respect of my client -- and there was a
23 settlement for a third-party claim.

24 **THE COMMISSIONER:** Mr. Lee?

25 **MR. LEE:** Ms. Robitaille just misspoke on

1 the Bates page and I'd just like the record to be clear.
2 It begins at 7164160.

3 **THE COMMISSIONER:** Thank you.

4 **MS. ROBITAILLE:** Your indulgence, Mr.
5 Commissioner.

6 **(SHORT PAUSE/COURTE PAUSE)**

7 **MS. ROBITAILLE:** Mr. McConnery, after having
8 reviewed those portions of Mr. MacDonald's statement along
9 with this information about the offer to contribute, you'd
10 agree that that's likely what Mr. MacDonald was averting to
11 in his '99 statement?

12 **MR. McCONNERY:** I'm not sure I would have
13 made that jump. But I suppose that my answer is that that
14 area of investigation is probably foreclosed by the death
15 of Mr. MacDonald. I think that's what I was saying in
16 scenario 3; that that avenue of investigation probably
17 couldn't go anywhere in light of the death of Mr.
18 MacDonald.

19 So whether or not -- when I read those
20 transcript passages you just gave me I didn't understand
21 him to be saying anything there about a lawsuit in which
22 Leduc was offering to pay a portion of 25. He was talking
23 about putting an end to something by contributing \$25,000
24 on the part of Mr. Leduc.

25 No, I didn't make this connection and I

1 wasn't aware of this. So I don't -- if you're asking me do
2 I now see it, I'd say it's a possibility.

3 **MS. ROBITAILLE:** When Mr. MacDonald speaks
4 of it costing \$100,000 to defend a claim and \$25,000 is
5 cheaper, do you understand that that very well could be a
6 reference to settling civil litigation?

7 **MR. McCONNERY:** Sure. Yes, sure.

8 **MS. ROBITAILLE:** And you'd agree with me
9 that there's nothing sinister or suspect about third-party
10 litigants making formal offers to contribute?

11 **MR. McCONNERY:** Well, in my mind it's a
12 little odd.

13 **MS. ROBITAILLE:** An offer to contribute?

14 **MR. McCONNERY:** To resolve a matter where --
15 -

16 **MS. ROBITAILLE:** You've been third party?

17 **MR. McCONNERY:** See, I -- you're talking
18 about litigation. I don't have it in front of me. What
19 was the litigation about?

20 **MS. ROBITAILLE:** If I can give you a brief
21 synopsis, Mr. McConnery.

22 **MR. McCONNERY:** I'm sorry; let me say this.
23 If the litigation -- if he was third partied because
24 they're saying he's -- you know, he's the one who drafted
25 the agreement ---

1 **MS. ROBITAILLE:** That's right.

2 **MR. McCONNERY:** --- therefore, it's his
3 liability?

4 **MS. ROBITAILLE:** That's right.

5 **MR. McCONNERY:** Okay. I can see your
6 analysis and say yes.

7 **MS. ROBITAILLE:** That it's not sinister or
8 suspect?

9 **MR. McCONNERY:** But that wasn't what I --
10 when I had that scenario that wasn't how it was presented
11 when I turn my mind to scenario 3.

12 **MS. ROBITAILLE:** If you accept for a moment,
13 in the context of this hypothetical, that the \$25,000
14 payment that Malcolm MacDonald was speaking about is this
15 offer to contribute, that that doesn't really factor into
16 scenario C; that's not of any assistance in the case
17 against Mr. Leduc in regards to the obstruct justice?

18 **MR. McCONNERY:** If I eliminate -- I'm sorry
19 -- if Mr. MacDonald was in that statement referring to the
20 offer to contribute in this third party action would I
21 eliminate that from my consideration and eliminate it from
22 scenario 3? It's somewhat speculative but I may have been
23 inclined to do that.

24 **MS. ROBITAILLE:** Yesterday, Mr. McConnery,
25 the other thing that struck you in Malcolm MacDonald's '99

1 statement, as you reread it in the context of these
2 proceedings, was that Malcolm MacDonald was, in your words,
3 "hedging" a bit on the question of whether or not Mr.
4 MacDonald saw the word criminal in the final draft. Do you
5 recall that?

6 **MR. McCONNERY:** Whether or not Mr. Leduc saw
7 the word criminal?

8 **THE COMMISSIONER:** Right.

9 **MS. ROBITAILLE:** That's right. Oh, I
10 misspoke.

11 **MR. McCONNERY:** Yes.

12 **MS. ROBITAILLE:** In the context of your
13 review, at the time you understood that Jacques Leduc had
14 explained to investigators that there had been drafts going
15 between his office and Malcolm MacDonald's office of the
16 agreement, right?

17 **MR. McCONNERY:** Why don't you put before me
18 what ---

19 **MS. ROBITAILLE:** No problem, Mr. McConnery.

20 **MR. McCONNERY:** I haven't reviewed it for
21 over eight years.

22 **MS. ROBITAILLE:** If we go back to Exhibit
23 2651.

24 **MR. McCONNERY:** Yes, I have that.

25 **MS. ROBITAILLE:** If we turn to page 43.

1 **THE COMMISSIONER:** I'm sorry, 2651?

2 **MR. McCONNERY:** The factual analysis?

3 **MS. ROBITAILLE:** The factual analysis, Mr.
4 Commissioner.

5 The line I want to bring your attention to
6 in your factual analysis, Mr. McConnery, is the sixth line
7 down. You've written:

8 "He believed that he may have corrected
9 the description of the Bishop in the
10 final draft but he never realized that
11 the reference to criminal was now
12 included. He felt that this was
13 inadvertent."

14 So clearly that's what you understood to be
15 Mr. Leduc's explanation to the police in 1994?

16 **MR. McCONNERY:** Yes.

17 **MS. ROBITAILLE:** I'm just going to summarize
18 what Malcolm MacDonald's position was in the '99 statement.
19 And if you'd like me to take you to those portions I'll
20 certainly do that.

21 **THE COMMISSIONER:** I'm sorry, to?

22 **MS. ROBITAILLE:** To Malcolm MacDonald's
23 statement.

24 **THE COMMISSIONER:** Nineteen ninety-one
25 (1991)?

1 **MS. ROBITAILLE:** Nine.

2 **THE COMMISSIONER:** Nine. Yes, the one we've
3 just looked at.

4 **MS. ROBITAILLE:** That's right.

5 **MR. McCONNERY:** That's the one we were
6 looking at? I have it right here.

7 **MS. ROBITAILLE:** Just to paraphrase, Mr.
8 McConnery -- and I will take you to it if something doesn't
9 sound right to you -- Mr. MacDonald says that he sent a
10 draft over to Mr. Leduc. Mr. Leduc made some cosmetic
11 changes. He says the word "criminal" was in that draft and
12 he offers his opinion on how closely Mr. Leduc may or may
13 not have read the draft.

14 **MR. McCONNERY:** Yes.

15 **MS. ROBITAILLE:** And so Mr. Leduc's
16 explanation and Mr. MacDonald's explanation aren't
17 inconsistent to the extent that they both avert to the
18 cosmetic changes in the draft, right?

19 **MR. McCONNERY:** Yes.

20 **MS. ROBITAILLE:** The only real difference in
21 their explanations are Malcolm MacDonald offers his opinion
22 about how closely he believes Mr. Leduc read the document?

23 **MR. McCONNERY:** Yes.

24 **MS. ROBITAILLE:** Mr. MacDonald also offers
25 this what I called the kit and caboodle explanation. He --

1 -

2 THE COMMISSIONER: The?

3 MS. ROBITAILLE: Kit and caboodle

4 explanation.

5 THE COMMISSIONER: That's a new one. Okay.

6 Go ahead.

7 MS. ROBITAILLE: I'll take you -- it's
8 pulled directly out of Mr. MacDonald's statement. I'll
9 read from it. I'll read from it. I don't think it's
10 necessary to go there.

11 He's asked:

12 "Did Leduc have knowledge with regards
13 to paragraph 2 in the agreement, that
14 the paragraph 2 is where the criminal
15 was?"

16 MacDonald answers:

17 "No, like what other than general
18 discussions before where it says 'gonna
19 stop everything' -- you know, I mean
20 all the proceedings."

21 And then he goes on to say:

22 "Well, probably it wasn't spelled out,
23 you know, but it was certainly, how
24 would you say, it seemed to be
25 accepted, like this was going to be a

1 whole kit and caboodle."

2 **THE COMMISSIONER:** All right.

3 **MS. ROBITAILLE:** So Mr. MacDonald maintains
4 that there was a kit and caboodle understanding between he
5 and Mr. Leduc, right?

6 **THE COMMISSIONER:** That's what the statement
7 says.

8 **MR. McCONNERY:** He uses an expression "kit
9 and caboodle".

10 What was your question?

11 **MS. ROBITAILLE:** That same -- Mr. MacDonald
12 maintains the same position in regards to Murray MacDonald,
13 for example, that Murray MacDonald understood that the
14 agreement was to encapsulate everything, civil and
15 criminal?

16 **MR. McCONNERY:** Well, that's not the
17 question you just asked me, I don't think, but you'll have
18 to show me that.

19 **THE COMMISSIONER:** Mr. Kloeze, did you want
20 to stretch your legs or did you want to object?

21 **MR. KLOEZE:** No, I -- Mr. McConnery actually
22 -- I think we should show Mr. McConnery the actual
23 passages.

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

25 **MS. ROBITAILLE:** If we go again to your

1 factual analysis ---

2 **MR. McCONNERY:** Oh, okay.

3 **MS. ROBITAILLE:** --- page 45, the last
4 bullet.

5 **MR. McCONNERY:** The last bullet, yes.

6 **MS. ROBITAILLE:** Third line:

7 "Malcolm MacDonald states at page 1047
8 that he spoke to the Crown and told him
9 that they were trying to settle the
10 whole matter, including the criminal
11 part. The Crown responded if he's
12 happy, everyone's happy but wasn't
13 specific about the criminal end of it."

14 And then:

15 "Malcolm MacDonald stated: 'I don't
16 think I said specifically civil and
17 criminal. I think I was clear to him
18 that he wouldn't proceed with anything,
19 put it that way.'"

20 Do you see that?

21 **MR. McCONNERY:** Yes.

22 **MS. ROBITAILLE:** So that was Malcolm
23 MacDonald's explanation as to his communications with
24 Murray MacDonald?

25 **MR. McCONNERY:** See, I'm not sure that I'm

1 following your logic. If Mr. Silmsers says, "I want to
2 settle this civilly and it'll all go away", that's probably
3 his right. He's the complainant.

4 If Mr. Murray MacDonald sees that is what
5 Mr. Silmsers is saying, I'm not sure that that leads to an
6 investigation of obstruct justice.

7 If lawyers or the subjects of the complaints
8 say to a complainant -- you know, they wouldn't use the
9 words "there's a civil and there's criminal aspect to it" -
10 - but "we will pay you money to resolve this so long as you
11 don't continue with your criminal complaint," I think
12 that's obstruct justice.

13 **MS. ROBITAILLE:** I think we are on totally
14 different pages, but I'm going to wrap this up. I don't
15 think that this is of any assistance to Mr. Commissioner.

16 We know from your evidence that after you
17 completed your review of the conspiracy brief, it was sent
18 to a former judge to get a second opinion. Is that right?

19 **MR. McCONNERY:** After I finished my review,
20 it was sent to a judge? Well, it was done at the same
21 time.

22 **MS. ROBITAILLE:** Parallel?

23 **MR. McCONNERY:** Yes.

24 **MS. ROBITAILLE:** Thank you.

25 Ultimately, you advised the OPP that, in

1 your opinion, their conclusions that there were no
2 subjective RPGs to lay obstruction charges were reasonable.

3 **MR. McCONNERY:** Yeah.

4 **MS. ROBITAILLE:** That's your final
5 conclusion?

6 **MR. McCONNERY:** Yes.

7 **MS. ROBITAILLE:** And what Detective Dupuis
8 told us when he was here when he was questioned on his
9 decision not to lay charges against Jacques Leduc for
10 obstruction, he said the evidence just wasn't there.

11 **MR. McCONNERY:** And what's he talking about?

12 **MS. ROBITAILLE:** Sorry?

13 **MR. McCONNERY:** What is he talking about?
14 Is he talking about that, 2001 or 1996?

15 **MS. ROBITAILLE:** He was talking about in
16 2001 the evidence just wasn't there to lay charges against
17 Jacques Leduc.

18 And based on your review, that was a
19 reasonable conclusion for Detective Dupuis to reach. Is
20 that right?

21 **THE COMMISSIONER:** Wait a minute. Wait a
22 minute. This is on the general conspiracy thing as opposed
23 to the obstruct justice?

24 **MS. ROBITAILLE:** They're part and parcel,
25 Mr. Commissioner. I can go to his evidence.

1 **THE COMMISSIONER:** Well, I don't know if it
2 is in this gentleman's mind. Is it? I don't know.

3 **MR. McCONNERY:** Well, no, I need to hear
4 what Joe Dupuis is alleged to have said. If he's saying
5 that I had no reasonable grounds to lay the charge against
6 Jacques Leduc as party to the conspiracy that was framed by
7 Ron Leroux, I have no problem with that.

8 **MS. ROBITAILLE:** We'll leave it there, Mr.
9 Commissioner.

10 **THE COMMISSIONER:** I don't know that it was
11 ever back on the table in 2001 for somebody to re-examine
12 as to whether they were going to charge Jacques Leduc with
13 obstruct justice. Were you ever -- I mean, other than your
14 Option 3 or ---

15 **MR. McCONNERY:** Yes.

16 **THE COMMISSIONER:** --- whatever it was
17 called, other than that, there was nothing on the radar for
18 you to assess?

19 **MR. McCONNERY:** No.

20 **MS. ROBITAILLE:** Thank you.

21 **THE COMMISSIONER:** Okay. I'm going to have
22 to say that we've done the day. Sorry, but I have to
23 continue tomorrow and the days after, and the days after.
24 What I try to do is sit late one night and then the other
25 night finish off a little earlier. And I see that we've

1 got at least two hours left, and I don't know that we could
2 even finish that tonight.

3 So I'm very sorry, sir, but that's the way
4 it's going to have to go. So we can start at 9:00 tomorrow
5 morning if that's okay with everybody?

6 All right. Thank you.

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

9 This hearing is adjourned until tomorrow
10 morning at 9:00 a.m.

11 --- Upon adjourning at 4:39 p.m./

12 L'audience est ajournée à 16h39

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

I, Dale Waterman 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, Dale Waterman, 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.



Dale Waterman, CVR-CM