

**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 84

Held at :

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

Wednesday, January 17, 2007

Tenue à:

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

Mercredi, le 17 janvier 2007

Appearances/Comparutions

Mr. Pierre Dumais	Commission Counsel
Ms. Louise Mongeon	Registrar
Mr. John E. Callaghan Mr. Marc Crane	Cornwall Police Service Board
Mr. Neil Kozloff Actg.Det.Supt.Colleen McQuade Ms. Suzanne Costom Ms. Diane Lahaie Dect.Staff Sgt.Colin Groskopf	Ontario Provincial Police
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Leslie McIntosh	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Ms. Jill Makepeace	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Bryce Geoffrey	Mr. John MacDonald

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1 --- Upon commencing at 9:34 a.m./

2 L'audience débute à 9h34

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

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

8 Please be seated. Veuillez vous asseoir.

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

11 **MR. DUMAIS:** Good morning, Commissioner.

12 Just one housekeeping matter. There is a
13 reference made and questions asked by the Diocese and
14 Cornwall Police Services yesterday on a transcript and it's
15 a transcript dated May 29th, 1996. Some of the parties made
16 reference to Exhibit 255. I believe we had advised that
17 possibly it was Exhibit 236 and it wasn't, so we need to
18 re-file that exhibit which should be now Exhibit 257.

19 So all questions by both of those parties
20 yesterday using either numbers Exhibit 236 or 255 should
21 actually be corrected 257.

22 **THE COMMISSIONER:** Good. So, I don't know
23 if it's possible for the reporters to put a correction on
24 the front page of yesterday's transcript so that when we
25 are re-reading these matters that we won't be waylaid.

1 Thank you.

2 **MR. DUMAIS:** Thank you.

3 So then, we are continuing with the cross-
4 examination of Mr. MacDonald ---

5 **THE COMMISSIONER:** Yes we are.

6 **MR. DUMAIS:** --- and I believe the Ontario
7 Provincial Police is up.

8 **MR. CARROLL:** No questions, thank you.

9 **THE COMMISSIONER:** Thank you.

10 So now, we come to Mr. Geoffrey.

11 **MR. DUMAIS:** That's correct; examination by
12 Mr. Geoffrey.

13 **THE COMMISSIONER:** Thank you.

14 **MS. McINTOSH:** Mr. Commissioner, I wonder if
15 I might address something before Mr. Geoffrey starts.

16 **THE COMMISSIONER:** Yes.

17 **MS. McINTOSH:** It's not clear to me under
18 the Rules, the extent to which counsel for a witness who is
19 not a party has standing to conduct an independent
20 examination. So that's one issue.

21 The second issue that I'm concerned about is
22 the possibility of new matters being canvassed at this late
23 stage after the institutional parties have completed their
24 cross-examinations. So those are my two concerns with this
25 procedure.

1 I've had a word with Mr. Geoffrey and he has
2 assured me that his questions are in the nature of re-
3 direct that are arising out of questions that were asked in
4 cross-examination. And if that is so, then I am content to
5 have it go ahead but I may be back up on my feet very
6 quickly if it's not so. I wanted to let you know my
7 concerns Mr. Commissioner.

8 **THE COMMISSIONER:** Okay. All right. Any
9 other comments arising out of that?

10 Mr. Geoffrey?

11 **MR. GEOFFREY:** Yes, Mr. Commissioner, what
12 I'm going to suggest is now that Mr. MacDonald has
13 concluded his cross-examination, I am in a position to
14 speak with him. And if I'm given five or ten minutes, I
15 may be able to narrow the scope of my examination of him
16 and I can indicate to you and to my friends that it is my
17 anticipated process that it will be very much of a re-
18 examination.

19 I don't anticipate taking him to places that
20 he hasn't already gone within the main context of his
21 cross-examination. I propose simply to go back and re-
22 visit certain areas where perhaps he wasn't given a chance
23 to give all of his evidence with respect to that, and there
24 is one area as I indicated yesterday when I spoke to you
25 that he had brought to my attention before he began his

1 cross-examination ---

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

3 **MR. GEOFFREY:** --- a specific area of
4 concern that he had. And now, if I could have the ability
5 to speak with him for five or ten minutes, we can simply
6 focus our efforts and probably save everybody a little bit
7 of time and effort here today.

8 **THE COMMISSIONER:** All right. Anything
9 arising out of that?

10 **MR. DUMAIS:** Perhaps, Commissioner, I can
11 just point out what our Rules provide on Mr. Geoffrey's
12 role.

13 So it is Rule 25 that is applicable in these
14 circumstances which deals with the order of cross-
15 examination. So subsection (a) deals with the role of
16 Commission counsel and subsection (b) deals with the cross-
17 examination by the parties to the proceeding and the order
18 of cross-examination. I think the application subsection
19 here is (c) and I'll read out loud:

20 "Counsel for a witness regardless of
21 whether or not counsel is also
22 representing a party will examine last
23 unless he or she has adduced evidence
24 of that witness-in-chief in which case
25 there will be a right to re-examine the

1 witness".

2 **MR. DUMAIS:** I think Mr. Geoffrey is not in
3 a different position than let's say what Mr. Dallas Lee was
4 when one of his clients was on the stand, or what position
5 Ms. McIntosh would be in when one of the Crowns is led into
6 evidence. So that's my view on that.

7 **THE COMMISSIONER:** Thank you.

8 **MS. McINTOSH:** I think the confusion arose
9 in my mind, Mr. Commissioner, because of Rule 22 which says
10 that:

11 "Counsel for a witness will have
12 standing for the purpose of that
13 witness's testimony to make any
14 objections thought appropriate".

15 **MS. McINTOSH:** So that, to me, created a bit
16 of an ambiguity in terms of a witness who wasn't a witness
17 from an institution that was a party. So I don't know that
18 we need to resolve that today. But those are my concerns.

19 **THE COMMISSIONER:** I understand, and in that
20 regard, I am going to permit Mr. Geoffrey to ask questions
21 but they should be in the form of re-examination unless, of
22 course, there are some very cogent a reason why it
23 shouldn't be.

24 With respect to the new matter, I don't know
25 what it was again, can you mention it again? You want to

1 be able to speak to him on that issue only, is that right?

2 **MR. GEOFFREY:** Yes, Mr. Commissioner. It's
3 not new in the sense that it's certainly something he was
4 questioned at at length within the context of his cross-
5 examination. And what it is is it was the letter from Mr.
6 Pelletier as he then was with respect to the conflict
7 issue. It's about a seven or eight page letter, I have the
8 reference; it's actually an exhibit before the Commission
9 when he was cross-examined by a number of individuals.
10 We're simply going to go back to that letter and discuss
11 certain portions of it. So it's not like a new document or
12 anything like that.

13 **MR. SHERRIFF-SCOTT:** Yes, Commissioner, Rule
14 25, just on the subject of this communications with the
15 witness, says:

16 "Except with permission of the
17 Commissioner ..."

18 **MR. SHERRIFF-SCOTT:** -- which is, I guess,
19 you could consider being sought:

20 "... no counsel other than the
21 Commission counsel may speak to a
22 witness about the evidence that he or
23 she has given until it is complete".

24 **MR. SHERRIFF-SCOTT:** And then it
25 distinguishes between that and cross-examination by

1 Commission counsel and I think that, when I look at that,
2 it seems to me that it encapsulates the policy that while
3 Commission counsel can do that, unless cross-examination is
4 finished, any other counsel can't.

5 Moreover, Commission counsel has the final
6 right of examination which includes the right of cross-
7 examination. So, technically, it may not be over and
8 that's why presumably the rules speaks in that fashion.
9 So, I would say it wouldn't be appropriate for Mr. Geoffrey
10 to consult with the witness before the evidence is in.

11 **THE COMMISSIONER:** Unless I give him ---

12 **MR. SHERRIFF-SCOTT:** Unless you give leave,
13 yes.

14 **THE COMMISSIONER:** Okay, and do you have any
15 problems with me giving him leave?

16 **MR. SHERRIFF-SCOTT:** Yes, I don't think it's
17 appropriate. I think that Mr. Geoffrey sat here, the
18 evidence is what it is and presumably had ample time to
19 meet with his witness and I am not sure I understand what
20 the imperative is.

21 **THE COMMISSIONER:** When would he have had --
22 before any examination began?

23 **MR. SHERRIFF-SCOTT:** Yes. Thank you.

24 **THE COMMISSIONER:** Okay. Mr. Geoffrey, the
25 reason why you'd like to meet with your client is simply to

1 save time?

2 **MR. GEOFFREY:** Exactly. I think that there
3 are certain issues that arose during his cross-examination
4 that are likely not going to have to be re-visited if I
5 have a few minutes with him.

6 As well, with respect to that issue that
7 came up before he began to be cross-examined, I haven't had
8 an opportunity to canvass that with him in a -- obviously,
9 during his cross-examination. So it may be that I am going
10 to be able to reduce substantially the number of questions
11 I have to ask with respect to those issues if I'm given
12 five minutes with him.

13 **THE COMMISSIONER:** Mr. Dumais, any comments?

14 **MR. DUMAIS:** No, your Honour. I think
15 cross-examination by other counsel is clearly over now and
16 I think he can meet with his client for five or ten minutes
17 certainly if it can save everyone time.

18 **THE COMMISSIONER:** All right. Mr. Geoffrey,
19 I'm going to permit you a short, very short, break on the
20 clear understanding that what you're going to be discussing
21 with him, as an officer of this court obviously, is the
22 matter of the letter from Mr. Pelletier and what else?

23 **MR. GEOFFREY:** I can certainly restrict my
24 discussions with him to that Mr. Commissioner. I undertake
25 to the court to do so, sir.

1 **THE COMMISSIONER:** Thank you. On that
2 basis, we will take 10 minutes and will come back.

3 **THE REGISTRAR:** The hearing will resume at
4 9:55 a.m.

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

7 --- Upon recessing at 9:44 a.m. /

8 L'audience est suspendue à 9h44

9 --- Upon resuming at 9:55 a.m. /

10 L'audience est reprise à 9h55

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

13 This hearing of the Cornwall Public Inquiry
14 is now in session. Please be seated. Veuillez vous
15 asseoir.

16 **JOHN MacDONALD, Resumed/Sous affirmation solennelle:**

17 **MR. GEOFFREY:** That was actually most
18 useful.

19 **THE COMMISSIONER:** Thank you.

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

21 **GEOFFREY:**

22 **MR. GEOFFREY:** Mr. MacDonald, before we move
23 on to the letter from Robert Pelletier, there are just a
24 couple of points, sir, that arose within the context of
25 your cross-examination by various counsel yesterday that I

1 would like to re-visit with you.

2 Initially, you recall you were cross-
3 examined by Mr. Ertel who is that counsel for Father
4 Charles MacDonald?

5 **MR. MacDONALD:** Yes.

6 **MR. GEOFFREY:** And within the context of his
7 cross-examination, Mr. Ertel drew your attention to the
8 fact that in the various processes and procedures you'd
9 been involved with over the years, you sometimes had a
10 problem recalling dates. You recall giving that evidence,
11 sir?

12 **MR. MacDONALD:** Yes.

13 **MR. GEOFFREY:** And within the various
14 processes over the years, Mr. Ertel gave you a couple of
15 examples. He talked about the year you became an altar
16 boy; he talked about the year you began your sobriety as a
17 couple of examples with respect to times you had difficulty
18 recalling dates and years.

19 **MR. MacDONALD:** Correct.

20 **MR. GEOFFREY:** Mr. MacDonald, as these
21 various processes evolved over the years, the examinations
22 for discovery and the civil processes or the cross-
23 examination within the context of the Preliminary Inquiry,
24 was there ever a time, sir, where those dates were actually
25 nailed down for you in some way?

1 **MR. MacDONALD:** Documents were provided that
2 proved dates that I was at certain spots at certain times.

3 **MR. GEOFFREY:** So, ultimately, you were
4 assisted by documents and you were able to say, for
5 example, what year you did in fact become an altar boy.

6 **MR. MacDONALD:** Correct.

7 **MR. GEOFFREY:** So, at some point in time,
8 those things were all clarified then?

9 **MR. MacDONALD:** Correct.

10 **MR. GEOFFREY:** Okay. Also within the
11 context of Mr. Ertel's cross-examination of you, he asked
12 you certain questions in connection with the original
13 letter that you had written to Father Maloney and that
14 letter is Exhibit 202 on this Inquiry.

15 And within the context of those questions,
16 Mr. Ertel drew your attention to the fact that you had
17 disclosed the existence of two incidents of abuse at the
18 hands of Father MacDonald and had not, in fact, disclosed
19 the fact that there was a third incidence of abuse. Do you
20 recall giving that evidence, sir?

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

22 **MR. GEOFFREY:** And are you able to explain
23 why it is that you did not disclose that third incident of
24 abuse within the context of that first letter?

25 **MR. MacDONALD:** I remember meeting with you

1 on September 11th and I had a difficult time being able to
2 put that across to you at the time. It was certainly the
3 most difficult and traumatic event that took place and I
4 just wasn't ready to share that with anybody.

5 **MR. GEOFFREY:** And, ultimately, you did in
6 fact share the details with respect to that third incident
7 I take it?

8 **MR. MacDONALD:** Yes, I did.

9 **MR. GEOFFREY:** Okay. And also within the
10 context of Mr. Ertel's cross-examination, he asked you
11 certain questions with respect to a statement that had been
12 given to police by a gentleman by the name of Aza
13 Morrisette and in Mr. Morrisette's statement, I think there
14 was a typed version which was Exhibit 246, and a
15 handwritten version which was 247. You told Mr. Ertel
16 within the context of your cross-examination that you did,
17 in fact, recall speaking to Mr. Morrisette in the summer of
18 1995 when you ran into him on the street in Cornwall?

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

20 **MR. GEOFFREY:** And within the context of
21 your conversation with Mr. Morrisette, did you disclose to
22 him at that point in time that you had been subjected to
23 any abuse by Father MacDonald?

24 **MR. MacDONALD:** I hadn't even told my wife
25 yet; I certainly wasn't going to tell him.

1 **MR. GEOFFREY:** All right, Mr. MacDonald,
2 we're going to move away from the points raised in your
3 cross-examination yesterday and we're going to turn now to
4 a document that's made the main exhibit number 228 within
5 the context of this Inquiry which is Robert Pelletier's
6 memorandum dated April 2nd, 1997.

7 Now, Mr. MacDonald, as I understand it this
8 was a document that you had an opportunity to review prior
9 to beginning your evidence in-chief and your cross-
10 examination.

11 **MR. MacDONALD:** That's correct.

12 **MR. GEOFFREY:** And as a result of your
13 review of this document, I understand, sir, that you had a
14 certain concern with respect to one portion of the
15 document.

16 **MR. MacDONALD:** That's correct.

17 **MR. GEOFFREY:** And I'll just point you there
18 and then perhaps you can explain to the Commissioner what
19 exactly your concern was.

20 It's my understanding, sir, it's the portion
21 found on page 9 of the document, the second large
22 paragraph. It would be the end sentence or two of that
23 paragraph and I'll just read it to you, just to make sure
24 we're all on the same page.

25 "It is in this connection that my

1 personal as well as professional
2 affiliations with Murray MacDonald
3 become a complicating factor, your
4 views in this regard would of course be
5 very much appreciated."

6 Is that in fact the portion of the document,
7 Mr. MacDonald, that caused you some concern?

8 **MR. MacDONALD:** Yes it is.

9 **MR. GEOFFREY:** Could you please explain to
10 the Commissioner what concerns you had as a result of that?

11 **MR. MacDONALD:** I can't remember when I
12 heard -- I can't remember what year it was that I heard
13 that Mr. Pelletier stepped aside for the very same reasons
14 that he's stating here. I believe it was around 1999 and
15 upon further review of some other documents that I've had a
16 chance to go through, it in fact did put him on the case as
17 late as September 7th, 1999 when he finally stepped aside
18 for a conflict of interest because of Murray MacDonald.

19 Some other documents that I've come across
20 put Mr. Pelletier on the case as early as the summer of
21 1993, which is a span of six years.

22 I just don't know how it's possible and he
23 was put on the case by Crown Attorney, Murray MacDonald,
24 upon Mr. MacDonald's suggestion. I don't know how it's
25 possible that somebody can hold a conflict, especially when

1 he's saying to his boss as early as April 2nd, 1997,
2 claiming conflict and then hold that conflict for a further
3 two and a half years before he finally steps aside for that
4 reason.

5 Mr. Pelletier wrote to Mr. Griffiths and it
6 seems Mr. Griffiths didn't act on that conflict either. In
7 fact, he put Mr. Pelletier back onto the case.

8 The time issue has been with me for a long
9 time; that this thing got tossed on a Charter -- on a
10 Charter call. I feel that it's borderline criminal what
11 these guys have done. They've handed Father MacDonald's
12 defence -- how much time had a different Crown been put on
13 when Mr. Pelletier was stating he had a conflict of
14 interest? Different decisions may have been made. The
15 charges may not have been married or joined and carried on.

16 This is sickening what I see here. I just
17 don't know what more to say about it. It's just eating me
18 up and that's the last thing I wanted to do was leave you
19 with any nagging questions.

20 **MR. GEOFFREY:** All right, Mr. MacDonald,
21 thank you very much.

22 Those are all my questions.

23 **THE COMMISSIONER:** Thank you.

24 Mr. Dumais?

25 **MR. DUMAIS:** I have no re-examination,

1 Commissioner.

2 Thank you, Mr. MacDonald.

3 **THE COMMISSIONER:** Mr. MacDonald, I would
4 like to thank you for coming. As I've indicated to all of
5 the other witnesses, your contribution to this Inquiry is
6 nothing short of, I would say, a public service that you
7 have done and I thank you for that.

8 With respect to any outstanding questions
9 you may have, I'm sure that through the institutional
10 response, many if not a great deal of those questions may
11 well be answered.

12 **MR. MacDONALD:** There's just one more thing
13 that's bothering me, Mr. Commissioner, and that's more of
14 an issue with the Inquiry itself.

15 **THE COMMISSIONER:** All right.

16 **MR. MacDONALD:** The Advisory Panel that
17 you've appointed --

18 **THE COMMISSIONER:** Yes.

19 **MR. MacDONALD:** -- there's a Father John
20 Loftus that sits on the Advisory Panel.

21 **THE COMMISSIONER:** Yes.

22 **MR. MacDONALD:** He was due to testify in
23 mid-December.

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

25 **MR. MacDONALD:** I shot in from out of town

1 at that time. I didn't know what I was going to do when I
2 got here but Father Loftus in his CV that's on the Cornwall
3 Inquiry website, he was quite proud to say that he was
4 Director of Southdown Treatment Centre from the years 1986
5 to 1994.

6 If your Advisory Panel is supposed to be an
7 impartial panel Father Charles MacDonald attended Southdown
8 in 1993 and I just can't understand what that type of
9 connection to the case -- how Father Loftus can be sitting
10 on your Advisory Panel.

11 That's another thing I had to get off my
12 chest before I leave here.

13 **THE COMMISSIONER:** And that's fine. I'll
14 take that under advisement and act accordingly.

15 **MR. MacDONALD:** Thank you.

16 **THE COMMISSIONER:** All right?

17 **MR. MacDONALD:** Thank you.

18 **THE COMMISSIONER:** All right, so now I
19 understand that we are going to close a tad early this
20 morning but that counsel will take this opportunity to have
21 the all-counsel's meeting and so all is not lost.

22 We'll return on January 29th, at 2 o'clock.

23 Thank you.

24 **THE REGISTRAR:** Order; all rise. À l'ordre;
25 veuillez vous lever. The hearing is now adjourned.

1 L'audience est ajournée.

2 --- Upon adjourning at 10:06 a.m./ L'audience est ajourné

3 à 10h06

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

I, Sean Prouse a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

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



Sean Prouse, CVR-CM