

**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 256

Held at :

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

Thursday, July 17 2008

Tenue à:

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

Jeudi, le 17 juillet 2008

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Karen Jones	Cornwall Community Police
Mr. Peter Manderville	Service and Cornwall Police
Ms. Reena Lalji	Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Darrell Kloeze	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of
Ms. Michele R.J. Allinotte	the United Counties
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Guiseppe Cipriano	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
Ms. Marie Henein	Mr. Jacques Leduc
M ^e Danielle Robitaille	
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Mr. Eldon Horner	Mr. Ron Wilson
Mr. Jacques Leduc	Mr. Jacques Leduc

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1 --- Upon commencing at 9:32 a.m./

2 L'audience débute à 9h32

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.

10 Good morning, Mr. Engelmann.

11 **MR. ENGELMANN:** Good morning, Mr.
12 Commissioner.

13 A couple of new faces this morning, to my
14 immediate right is Mr. Eldon Horner.

15 **THE COMMISSIONER:** Mr. Horner.

16 **MR. ENGELMANN:** He is here on the motion for
17 Mr. Ron Wilson.

18 **THE COMMISSIONER:** Yes.

19 **MR. ENGELMANN:** As well, with Mr. Kloeze
20 from the Ministry of the Attorney General is Andrea Cole.

21 **THE COMMISSIONER:** Good morning.

22 **MR. ENGELMANN:** She is here as well.

23 **THE COMMISSIONER:** Yes. Thank you.

24 **MR. ENGELMANN:** Sir, this is Motion -- 15
25 is, I think, our number. Motion Record has been filed in

1 accordance with the rules. If I could just enter some
2 exhibits and then turn this over to Mr. Horner.

3 **THE COMMISSIONER:** Certainly.

4 **MR. ENGELMANN:** This is a motion to excuse a
5 witness. The witness name is Ron Wilson. Mr. Wilson was
6 on the Commission's witness list as a possible witness
7 under either the Cornwall Police Service as a witness or
8 under the Community Context. His name has come up on
9 several occasions in this hearing.

10 He was a 15-year veteran of the Cornwall
11 Police Service. He was also, as you recall, head of the
12 Cornwall Police Service's Board ---

13 **THE COMMISSIONER:** Yeah.

14 **MR. ENGELMANN:** --- in or around the mid-
15 '90s. He had caused a third-party complaint to be filed
16 against Mr. Perry Dunlop that we've looked at.

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

18 **MR. ENGELMANN:** He was a friend of Ken
19 Seguin's and Malcolm MacDonald's. And we've heard about at
20 least allegations that he was involved with these
21 individuals at various places, including outside the
22 country. So we were interested in having Mr. Wilson as a
23 witness.

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

25 **MR. ENGELMANN:** Mr. Horner has filed some

1 Motion Record material. If I could just simply have his
2 Motion Record filed as M15-A1.

3 ---EXHIBIT NO./PIÈCE NO C-M15-A1:

4 Motion Record (Ron Wilson)

5 **THE COMMISSIONER:** Yes, thank you.

6 **MR. ENGELMANN:** He has filed Book of
7 Authorities as well. If we could just have that marked as
8 M15-A2.

9 ---EXHIBIT NO./PIÈCE NO M15-A2:

10 Book of Authorities (Ron Wilson)

11 **MR. ENGELMANN:** And the only letter we had
12 in opposition, that set out the reasons at least, is that
13 of Ms. Daley on behalf of the Citizens for Community
14 Renewal. That's a letter dated July 3rd, 2008 and if that
15 could be a letter submission filed as M14-B1.

16 ---EXHIBIT NO./PIÈCE NO M14-B1:

17 Submissions - letter Form, May 28, 2008
18 (CCR)

19 **MR. ENGELMANN:** I'm advised by Mr. Horner,
20 in fact, in his motion, has asked to make his argument in
21 camera because of the privacy issues involved. Perhaps
22 I'll just turn it over to him to meet that first test
23 before we decide whether or not this is being argued
24 publicly or in camera.

25 **THE COMMISSIONER:** Thank you.

1 Yes sir, Mr. Horner.

2 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. HORNER:

3 MR. HORNER: Good morning, Mr. Commissioner.

4 THE COMMISSIONER: Good morning.

5 MR. HORNER: I apologize. As you're aware
6 Mr. Engelmann knows this is my first appearance before the
7 Inquiry. And I understand there is a process referring
8 electronically to documents. So I may need some guidance
9 from the Commission in that respect, but ---

10 THE COMMISSIONER: Well, what I'd like you
11 to do, start off with is to stand in front of the
12 microphone.

13 MR. HORNER: I can start with that.

14 THE COMMISSIONER: All right.

15 MR. HORNER: How's that?

16 THE COMMISSIONER: Thank you.

17 MR. HORNER: The Motion Record to which Mr.
18 Engelmann alluded, M15-A1 does contain the Notice of Motion
19 from Mr. -- on behalf of Mr. Wilson. The first requested
20 relief in that Notice of Motion is an order directing that
21 the matter be heard in camera.

22 The motion materials consist of medical
23 reports as well as an affidavit from a close family member
24 in the form of his son which contains a significant amount
25 of very personal information in relation to Mr. Wilson's

1 health.

2 In the circumstances and I would ask the
3 Commission direct that the matter be heard in camera. I
4 don't know if further argument is required. I'm not
5 certain if anyone would be opposing the request that the
6 matter be heard in camera but certainly on behalf of Mr.
7 Wilson, it's my submission that, given the nature of the
8 materials, it's appropriate to do the matter in camera.

9 **THE COMMISSIONER:** Well, are you aware of
10 the test?

11 **MR. HORNER:** I am. I had occasion -- I had
12 occasion, Mr. Commissioner, to review the Dagenais/Mentuck
13 test and in my submission the materials filed in this
14 matter meet that test given their nature, given the
15 extraordinarily personal information which is included in
16 the materials.

17 And it would be my submission to the
18 Commissioner that this meets the test for discretionary
19 orders, given the impact on Mr. Wilson and the nature of
20 this proceeding where there is not anyone's life or liberty
21 at stake. The administration of justice, I would suggest,
22 would be best served by having this matter dealt with in
23 camera.

24 **THE COMMISSIONER:** Thank you.

25 Anybody wish to comment on whether or not we

1 should be going in camera or not?

2 Mr. Manderville.

3 **MR. MANDERVILLE:** The only thing I would
4 add, Mr. Commissioner, is as you are aware, there's an
5 Ontario statute called the *Personal Health Information*
6 *Protection Act* which creates a presumption of privacy. In
7 effect, it statutorily reverses the Dagenais/Mentuck test.
8 And there was a presumption of privacy in the absence of
9 evidence showing that that presumption should be reversed.

10 That's the only thing I would add.

11 **THE COMMISSIONER:** All right.

12 Anyone else?

13 All right. In my view, as I've decided in
14 the previous matter, I think it is incumbent that we turn
15 this matter into in camera session. How when we're dealing
16 with people's mental health, and when we're dealing with
17 matters that are personal in nature, I think that the right
18 of the public to know the details has to be balanced with
19 those -- that situation.

20 I have read the material and in my view,
21 it's an appropriate case for the matter to be held in
22 camera.

23 So, accordingly, what we will do is we will
24 take the 15 minutes we need to switch over. We'll hear the
25 matter. And then when we come back, I'll -- we'll come

1 back on the record and I'll give a brief summary to the
2 members of the public as to what occurred.

3 **MR. ENGELMANN:** Just before we break, sir.
4 I note that much of the material contained in the Motion
5 Record is of a medical, very personal intimate nature ---

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

7 **MR. ENGELMANN:** --- and if we're going in
8 camera, this should probably be marked as "C" for
9 confidential.

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

11 **MR. ENGELMANN:** And that would be M15-A1.

12 **THE COMMISSIONER:** Yes.

13 **MR. ENGELMANN:** Thank you, sir.

14 **THE COMMISSIONER:** All right.

15 I guess everybody is so happy to see me
16 leave.

17 **(LAUGHTER/RIRES)**

18 **THE COMMISSIONER:** We'll take the break.

19 Thank you.

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

22 This hearing will resume at 9:50 a.m. in
23 camera.

24 --- Upon recessing at 9:39 a.m. to resume in camera /

25 --- L'audience est suspendue à 9h39 pour reprendre à huis-

1 clos

2 --- Upon resuming in Public Session at 10:29 a.m./

3 L'audience est reprise à 10h29

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

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

8 **JACQUES LEDUC: Resumed/Sous le même serment:**

9 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

10 **MS.DALEY: (cont'd./suite)**

11 **MS. DALEY:** How are you today, sir?

12 **MR. LEDUC:** I'm here.

13 **MS. DALEY:** That's all I can ask for.

14 There are two minor points I wanted to
15 clarify with you from yesterday afternoon, pertaining to
16 your professional engagements in Quebec on behalf of
17 alleged victims of assault by priests.

18 I had asked you yesterday whether the
19 priests involved in those matters also practised in
20 Cornwall and you said no. I'd like to just ask, do you
21 know if following the settlement of the matter that you
22 were involved in, any of those priests came to Cornwall to
23 practise here?

24 **MR. LEDUC:** Not that I know of.

25 **MS. DALEY:** Right. And prior to -- prior to

1 the time in which you were dealing with complaints about
2 those priests, do you know if they had practised in
3 Cornwall before coming to Quebec?

4 **MR. LEDUC:** No.

5 **THE COMMISSIONER:** No, they didn't or no,
6 you don't know?

7 **MR. LEDUC:** No, they didn't.

8 **THE COMMISSIONER:** Okay.

9 **MS. DALEY:** Right. And do you have a
10 licence to practise in the Province of Quebec?

11 **MR. LEDUC:** No.

12 **MS. DALEY:** Now, I want to go back then to
13 where we left off and that is your involvement with the
14 Silmsler complaint as a member of the ad hoc committee, and
15 we had just been talking about the meeting that was held
16 with Mr. Silmsler and your involvement in that; just to put
17 you back where we were yesterday afternoon.

18 Sir, did you know before that meeting on
19 February 9th that Father Charles had already made a complete
20 denial of Silmsler's allegations?

21 **MR. LEDUC:** I don't recall that. My
22 recollection is Monsignor McDougald had said that Father
23 Charles had said this -- these -- well, this -- this
24 allegation was not true.

25 **MS. DALEY:** All right. So you were aware,

1 or your committee was aware through Monsignor McDougald,
2 that Father Charles had denied the truth of Silmsers'
3 allegations?

4 MR. LEDUC: That's correct.

5 MS. DALEY: And you knew that before you met
6 with Mr. Silmsers on February 9th?

7 MR. LEDUC: That's correct.

8 MS. DALEY: And did you and the other
9 committee members also know, prior to February 9th, that Mr.
10 Silmsers -- I'm sorry, that Father Charles had retained
11 Malcolm MacDonald to represent him?

12 MR. LEDUC: I don't recall if we knew that
13 at the -- if I knew that at the time. I don't know about
14 the other two members.

15 MS. DALEY: All right.

16 I don't know if you have Exhibit 312 handy,
17 and I'll just take a minute with you on it, but you may
18 remember that Exhibit 312 is a letter that Malcolm
19 MacDonald wrote to Monsignor McDougald back in December of
20 1992, indicating that he was retained?

21 MR. LEDUC: Yes.

22 MS. DALEY: Do you recall that it says there

23 ---

24 MR. LEDUC: Yes.

25 MS. DALEY: And in that letter as well, Mr.

1 MacDonalld is saying to Mr. McDougald that he intends to
2 have further dealings with MccDougald unless told
3 otherwise. I think that's in the first paragraph. Do you
4 see that, sir?

5 MR. LEDUC: Yes.

6 MS. DALEY: Now, did -- do you remember if
7 Monsignor McDougald made you and the other committee member
8 aware of that fact prior to the interview of Silmser?

9 MR. LEDUC: I don't recall.

10 MS. DALEY: McDougald of course was part of
11 that interview team, so certainly he would have knowledge
12 of that; correct?

13 MR. LEDUC: You'd have to ask him that.

14 MS. DALEY: He received -- he received a
15 letter from Malcolm. He received Exhibit 13 ---

16 MR. LEDUC: Again, I have it in front of me,
17 but if your question is did he receive it, you'd have to
18 ask him.

19 MS. DALEY: That's fine.

20 Now, you gave some evidence about the fact
21 that in the February 9th interview you were somewhat
22 pressing Mr. Silmser for details concerning the fourth
23 incident of assault that he had related, and that those
24 details were not forthcoming from him. You recall that,
25 sir?

1 **MR. LEDUC:** Yes.

2 **MS. DALEY:** And is it the case that you were
3 seeking those details because you thought it necessary to
4 take those details to Father Charles for his response?

5 **MR. LEDUC:** That's my understanding, yes.

6 **MS. DALEY:** All right. But you did know
7 that Charles had already denied any sexual improprieties
8 with Mr. Silmser, full stop?

9 **MR. LEDUC:** Yes.

10 **MS. DALEY:** Would the provision of details
11 to Father Charles have simply been to better enable him to
12 refute the allegation?

13 **MR. LEDUC:** In all fairness to him, yes.

14 **MS. DALEY:** All right. And was that at
15 least your mindset as you were on the committee, trying to
16 get those details from Mr. Silmser?

17 **MR. LEDUC:** Well, to establish whether or
18 not the allegations put forth, firstly, had some
19 reasonableness and, secondly, whatever was being relayed to
20 the members of the committee would have eventually been put
21 to Father Charles.

22 **MS. DALEY:** But your anticipation, I take
23 it, sir, was that when that last -- latter step occurred,
24 Father Charles would be refuting them?

25 **MR. LEDUC:** I don't know what Father Charles

1 would have done.

2 **MS. DALEY:** Is it correct, sir -- and I've
3 seen this word somewhere in the materials. If you disagree
4 with it you tell me so, but that the details which were
5 being sought about that fourth incident were biological in
6 nature or had to do with the actual physical events that
7 had occurred between them?

8 **MR. LEDUC:** Yes.

9 **MS. DALEY:** Is that what you were looking
10 for?

11 **MR. LEDUC:** Yes.

12 **MS. DALEY:** And that's what Mr. Silmsen
13 would not discuss with you?

14 **MR. LEDUC:** Yes.

15 **MS. DALEY:** And if I'd understood you
16 correctly, you gave some evidence to my friend in-chief
17 that after the interview, when Malcolm MacDonald called
18 you, you declined to give him details of anything that
19 Silmsen had said?

20 **MR. LEDUC:** I don't recall that.

21 **MS. DALEY:** I may have misunderstood you.
22 You tell me what your recollection is. Did you provide Mr.
23 -- sorry, Malcolm MacDonald with details of what Silmsen
24 had told you?

25 **MR. LEDUC:** Probably in a discussion in

1 August ---

2 MS. DALEY: All right.

3 MR. LEDUC: --- of '93.

4 MS. DALEY: Just staying with your
5 involvement in the meeting and your assessment of Mr.
6 Silmsen as a result of that meeting, I take it, sir, you
7 attributed a possibly disingenuous motive to his request
8 for an apology. Would you agree?

9 MR. LEDUC: No.

10 MS. DALEY: Have a look, if you would
11 please, at your statement to Scott and Ayles. I am working
12 with Exhibit 1888, which is the final statement.

13 And if you please look at Bates page 745,
14 that's page 3 of the statement.

15 MR. LEDUC: Yes.

16 MS. DALEY: The first full bulleted
17 paragraph. Just read that. You might want to review that
18 for a moment.

19 MR. LEDUC: Yes.

20 MS. DALEY: And I put the question to you
21 because the last sentence there reads:

22 "I was also concerned that he might be
23 seeking an admission for the use in a
24 lawsuit against the Diocese."

25 MR. LEDUC: Yes.

1 **MS. DALEY:** Do you see that, sir? Was that
2 not, in fact, the concern that you held?

3 **MR. LEDUC:** Yes.

4 **MS. DALEY:** And in fairness, of course, you
5 are there as a lawyer to the Diocese. So your frame of
6 mind would be to protect your client's interests?

7 **MR. LEDUC:** Yes.

8 **MS. DALEY:** And you see before you a person
9 who you think might be making a claim on your client, and
10 there -- and you're concerned, whether or not he's spoken
11 about money, that if an apology were to be given, it might
12 be used against your client; correct?

13 **MR. LEDUC:** Yes.

14 **MS. DALEY:** And as their lawyer, with an
15 obligation to protect their interests, that was a concern
16 you had?

17 **MR. LEDUC:** Yes.

18 **MS. DALEY:** Now did the non-lawyer members
19 of the committee have the same concern or did they also
20 attribute that motive to Mr. Silmsen?

21 **MR. LEDUC:** I don't know that.

22 **MS. DALEY:** Did the committee ever consider
23 whether a verbal apology or perhaps a discussion between
24 Father Charles and Mr. Silmsen's mother might have been in
25 order?

1 **MR. LEDUC:** No, I have no distinct
2 recollection of that particular concern or issue being
3 advanced, except that there was some discussion about how
4 can we assist Mr. Silmsler in obtaining some kind of -- I
5 don't want to use the word "reconciliation" but for him to
6 come to terms with what he was putting forth. We wanted to
7 be helpful to Mr. Silmsler and, of course, in receiving his
8 observations, I recall that we were very open and certainly
9 not judgmental or critical or -- but that's the sense of
10 the discussion, that we were quite open to what he was
11 saying ---

12 **MS. DALEY:** Your ---

13 **MR. LEDUC:** --- at the receiving end.

14 **MS. DALEY:** Sorry, I didn't mean to cut you
15 off.

16 Your protocol speaks to assistance to
17 victims and their families.

18 **MR. LEDUC:** M'hm.

19 **MS. DALEY:** And close support.

20 **MR. LEDUC:** M'hm.

21 **MS. DALEY:** And it seems what Mr. Silmsler is
22 telling you, if you just assume for a moment he's being
23 sincere, is that he has issues with his mother. He has had
24 issues with his own behaviour, and he's looking for some
25 connection between the Church and his mother.

1 **MR. LEDUC:** M'hm.

2 **MS. DALEY:** Is that a fair way to understand
3 what he presented?

4 **MR. LEDUC:** Without getting into that much
5 detail, I would think that he had expressed, I thought very
6 clearly, his need to give some explanation to his mother.

7 **MS. DALEY:** Yes, all right. And ordinarily,
8 that would be something, I would have thought, that the
9 Church would consider when it's implementing its protocol.

10 **MR. LEDUC:** Possibly.

11 **MS. DALEY:** Certainly, in the Deslauriers
12 matter, there was outreach and a lot of connection between
13 the Church and the parents of those victims; correct?

14 **MR. LEDUC:** Yes.

15 **MS. DALEY:** But in this circumstance, I take
16 it, sir, that his request for an apology, a written
17 apology, bothered you because you thought that would
18 involve an admission of liability and you weren't prepared
19 to go there?

20 **MR. LEDUC:** I've just said that.

21 **MS. DALEY:** All right. So ---

22 **MR. LEDUC:** Well, listen, when you say I
23 wasn't prepared to go there, it was not my decision. It
24 was ultimately Father Charles' decision if he wanted to
25 give such ---

1 **MS. DALEY:** I appreciate that, but in your
2 capacity as a member of this committee ---

3 **MR. LEDUC:** Yes.

4 **MS. DALEY:** -- you weren't prepared to make
5 a recommendation that an apology happen because you were
6 concerned of the civil liability consequences?

7 **MR. LEDUC:** I'm not sure if that ever was
8 the issue of any recommendation. It was out of our hands
9 basically.

10 **MS. DALEY:** Now, the other factor, which I
11 guess is somewhat negative in terms of how your committee
12 assessed Mr. Silmsler, is Monsignor McDougald's indication
13 that there appeared to be a vindictive streak in Mr.
14 Silmsler, and that's also found in Exhibit 1888. Do you
15 recollect that, sir?

16 **MR. LEDUC:** Yes.

17 **MS. DALEY:** And did Mr. McDougald have
18 knowledge of Silmsler, separate and apart from the interview
19 that the three of you conducted with him? Do you know?

20 **MR. LEDUC:** My recollection of the readings
21 I've recently completed was that he may have been the
22 pastor at St. Columban's when the family were parishioners.
23 That's a vague recollection I have of my recent meetings.

24 **MS. DALEY:** I'm just wondering if you can
25 help us as to your understanding of McDougald's perception.

1 Did you have any understanding as to why McDougald thought
2 that Mr. Silmsler was vindictive or had a vindictive streak?

3 MR. LEDUC: No.

4 MS. DALEY: Now, I want to talk then about
5 the comment made at page 3 of Exhibit 1888 in the third
6 bullet from the top.

7 MR. LEDUC: Yes.

8 MS. DALEY: I'm sorry, I misdirected you;
9 the second bullet from the top.

10 MR. LEDUC: Yes.

11 MS. DALEY: And you had given some evidence
12 about that part of the Silmsler interview earlier to my
13 friend.

14 Sir, do you know in what circumstances the
15 Church had previously provided compensation for therapy
16 costs?

17 MR. LEDUC: I think in relation to the
18 Deslauriers matter.

19 MS. DALEY: All right. And was the pre-
20 condition to that, the Church being satisfied that the
21 abuse had likely occurred?

22 MR. LEDUC: I was not involved.

23 MS. DALEY: Do you ---

24 MR. LEDUC: I don't know, no.

25 MS. DALEY: --- know the answer to my

1 question?

2 **MS. DALEY:** Now, the Silmsers settlement,
3 which ultimately occurred, you've testified about it at
4 great length here, and you speak to it as well in Exhibit
5 1888, the settlement that occurred, the \$32,000, was not
6 connected to therapy, at least not in any of the evidence
7 that we've heard from you so far. Is that fair?

8 **MR. LEDUC:** No. I recall yesterday, and I'm
9 not sure if we were looking at a document, that there was
10 an issue that some of it was for therapy. I'm not sure if
11 it's -- I'm not sure what document we referred to, but it
12 was certainly the position of the Diocese that this was in
13 part being advanced to assist Mr. Silmsers with therapy,
14 with the payment of therapy.

15 **MS. DALEY:** I take it though there was no
16 condition of any sort in the settlement that it be utilised
17 in that fashion ---

18 **MR. LEDUC:** No.

19 **MS. DALEY:** --- by him?

20 **MR. LEDUC:** You're right.

21 **MS. DALEY:** Okay, and I take it that he did
22 not present to the Diocese, for example, evidence of the
23 cost of therapy in exchange for the settlement amount?

24 **MR. LEDUC:** That's right.

25 **MS. DALEY:** And if I understood your

1 evidence about the settlement itself and the negotiations,
2 did Malcolm MacDonald, when he talked to you about, "Let's
3 go talk to the Bishop about a possible settlement," he
4 didn't mention therapy in that context; did he?

5 **MR. LEDUC:** Yes, therapy was part of the
6 reason for coming up with a settlement.

7 **MS. DALEY:** I guess the question I want to
8 put to you, and I don't mean this in any kind of pejorative
9 way, but is paying the cost of therapy a bit of a pretext
10 for making a settlement payment by the Diocese?

11 **MR. LEDUC:** No, ma'am.

12 **MS. DALEY:** Did Bishop Larocque ever see
13 therapy bills by -- from Mr. Silmser?

14 **MR. LEDUC:** You'd have to ask the Bishop.

15 **MS. DALEY:** To your knowledge, you never saw
16 any therapy bills?

17 **MR. LEDUC:** No.

18 **MS. DALEY:** And do you know if Bishop
19 Larocque had seen therapy bills?

20 **MR. LEDUC:** I don't know that.

21 **MS. DALEY:** The reason I ask you that, and I
22 won't belabour it, but if I could take you just briefly to
23 -- bear with me -- Exhibit 1915? We looked at that
24 yesterday, 1915.

25 **MR. LEDUC:** Nineteen fifteen (1915)?

1 MS. DALEY: Yes, that's correct.

2 MR. LEDUC: Yes.

3 MS. DALEY: It should be the press article?

4 MR. LEDUC: Yes.

5 MS. DALEY: And I'm looking in the far left
6 column.

7 MR. LEDUC: Yes.

8 MS. DALEY: And six and seven paragraphs
9 down.

10 MR. LEDUC: Yes.

11 MS. DALEY: Bishop Larocque is quoted saying
12 that:

13 "He was at first against the idea of
14 paying the settlement and he says, 'I
15 could see that by giving money, it
16 would show that it would prevent
17 justice.'"

18 And clearly that's his view as it was known
19 to you.

20 And then he goes on to say:

21 "I gave in because this young man had a
22 considerable bill with counselling."

23 Now, again, you're not aware of bills being
24 presented to the Bishop?

25 MR. LEDUC: No.

1 **MS. DALEY:** Thank you.

2 **THE COMMISSIONER:** Well, in fairness, did I
3 not hear evidence that basically Silmser was saying, "Look,
4 I've got \$16,000 worth of bills already"? Wasn't that on
5 the table as part of the discussions or am I just mixing
6 things up?

7 **MS. DALEY:** I think there is some evidence
8 about a rationalization for an amount ---

9 **THE COMMISSIONER:** Right. Yeah.

10 **MS. DALEY:** --- that tied to therapy.

11 **THE COMMISSIONER:** Yeah, that's exactly it.

12 **MS. DALEY:** That's my recollection too, sir.

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

14 **MS. DALEY:** Now, I want to move to a
15 different topic but still with Mr. Silmser and these
16 events. And what I want to speak about now is what you and
17 the Diocese came to know about the status of the police
18 investigation of Father Charles.

19 And I take it, from your perspective at
20 least, your only source of information about that was
21 Malcolm MacDonald?

22 **MR. LEDUC:** No, Murray MacDonald, the Crown
23 Attorney, as well.

24 **MS. DALEY:** All right. Okay.

25 You spoke to Murray at the very end?

1 **MR. LEDUC:** Before the settlement was
2 proceeded with, yes.

3 **MS. DALEY:** All right.

4 So if I can then take you back to the
5 timeframe before the settlement is dealt with ---

6 **MR. LEDUC:** Yes.

7 **MS. DALEY:** --- the February timeframe, you
8 know, between the complaint coming in and the settlement,
9 in that span of time you're being given some information
10 about the Cornwall Police investigation and it's coming
11 from Malcolm MacDonald. Is that correct?

12 **MR. LEDUC:** I believe that was in August.

13 **MS. DALEY:** All right.

14 My question was in that frame of time, when
15 information is coming to you, is Malcolm MacDonald the only
16 source of information that you have about the progress of
17 the police investigation?

18 **MR. LEDUC:** The only information was that it
19 was being concluded from Malcolm.

20 **MS. DALEY:** That information came from
21 Malcolm though?

22 **MR. LEDUC:** Yes.

23 **MS. DALEY:** No one else was telling you
24 that?

25 **MR. LEDUC:** No.

1 **MS. DALEY:** And you didn't pick up the phone
2 and try to speak with a police officer who was
3 investigating, I take it?

4 **MR. LEDUC:** No.

5 **MS. DALEY:** Now -- one moment, sir.

6 If I could ask you to have Exhibit 1888
7 available. That's your statement again.

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

9 **MS. DALEY:** And I'd like to take you to
10 Bates page 746 of that document.

11 **MR. LEDUC:** Yes.

12 **MS. DALEY:** Maybe just refresh your mind by
13 looking at the first full two paragraphs on that page.

14 **(SHORT PAUSE/COURTE PAUSE)**

15 **MR. LEDUC:** Yes.

16 **MS. DALEY:** I'm right, am I not, sir, that
17 amongst other things, Malcolm actually gave you statements
18 that had been given by witnesses to Heidi Sebalj, the
19 police officer?

20 **MR. LEDUC:** I believe they were letters.

21 **MS. DALEY:** Letters? All right.

22 But they were letters that spoke to the
23 writer's involvement with Father Charles; correct?

24 **MR. LEDUC:** Yes.

25 **MS. DALEY:** And was it your understanding

1 that Malcolm had received those materials from Constable
2 Sebalj?

3 **MR. LEDUC:** I don't recall.

4 **MS. DALEY:** Those were the materials that
5 you handed over to the CAS at a later time; correct?

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

7 **MS. DALEY:** All right.

8 So there's no doubt that you had documents
9 that Malcolm had given to you that seemed to pertain to the
10 police investigation?

11 **MR. LEDUC:** At what point in time though?

12 **MS. DALEY:** At the time he gives you these
13 two letters?

14 **MR. LEDUC:** Well, I don't know when that --
15 I don't recall when I actually got those letters.

16 **MS. DALEY:** I thought you told us yesterday,
17 surrounding this paragraph, that you think that might have
18 happened in August, or do you know?

19 **MR. LEDUC:** No, I said we had conversations
20 in August.

21 **MS. DALEY:** Right.

22 **MR. LEDUC:** I don't recall giving any
23 evidence as to when I had received those letters because --
24 -

25 **MS. DALEY:** Have you a recollection?

1 MR. LEDUC: No.

2 MS. DALEY: All right.

3 Is it fair to say that the letters were
4 exculpatory vis-à-vis Father Charles?

5 MR. LEDUC: Exculpatory in what sense?

6 MS. DALEY: They certainly didn't suggest
7 that Father Charles had assaulted or abused the writer in
8 any way?

9 MR. LEDUC: That's correct.

10 MS. DALEY: In fact, according to what
11 you've written here in Exhibit 1888, they were glowing
12 appraisals of Father Charles and they denied any
13 allegations of problems; correct?

14 MR. LEDUC: Yes.

15 MS. DALEY: So they were very positive about
16 Charles?

17 MR. LEDUC: If I recall, one of them was
18 from an RCMP officer.

19 MS. DALEY: Right.

20 MR. LEDUC: I may be -- is that correct? I
21 don't recall. I believe there was one from an RCMP officer
22 or a detective. I'm not sure.

23 MS. DALEY: They were letters, clearly, that
24 not just exculpated Father Charles but praised him?

25 MR. LEDUC: I think so.

1 **MS. DALEY:** To an extent?

2 **MR. LEDUC:** If that's what I say in this
3 paragraph, yes.

4 **MS. DALEY:** Yes. All right.

5 And I take it that that -- the substance of
6 what I believe Malcolm is conveying to you is that the
7 police have two leads, but these people are praising Father
8 Charles and not accusing him of anything. Is that the gist
9 of it?

10 **MR. LEDUC:** I wouldn't be able to put that
11 in context. All I recall is receiving letters and
12 forwarding them on, I think, to -- I know to the CAS and --
13 -

14 **MS. DALEY:** Well, sir, let me just ---

15 **MR. LEDUC:** And as a matter of fact, I'd
16 really like to have someone confirm with me that I got them
17 directly from Malcolm or did he send them to the Diocese --
18 Diocesan Centre for -- I'm not sure. I'm not sure how they
19 got to me. Malcolm may have sent them to me, but I don't
20 recall.

21 **MS. DALEY:** Well, what you say in Exhibit
22 1888 is that:

23 "I received copies of these letters
24 from Malcolm MacDonald and forwarded
25 them to the Diocese."

1 So is that your best evidence?

2 **MR. LEDUC:** Well, that's probably the best
3 evidence, yes.

4 **MS. DALEY:** All right.

5 And I assume you read them when you received
6 them?

7 **MR. LEDUC:** Yes.

8 **MS. DALEY:** And you would have been
9 encouraged, would you not, by receiving these materials,
10 encouraged in the sense that it seemed as though Father
11 Charles was innocent?

12 **MR. LEDUC:** I wouldn't have come to that
13 conclusion. The letters said what they said.

14 **MS. DALEY:** All right.

15 Let me ask you this, sir. Did you not
16 perceive that Malcolm was trying to persuade you and the
17 committee that Charles had done no wrong and that the
18 Silmsen complaint was fabricated?

19 **MR. LEDUC:** Malcolm had nothing to do with
20 the committee.

21 **MS. DALEY:** He's giving -- he's speaking to
22 you about the police investigation and he's giving you a
23 positive report.

24 **MR. LEDUC:** He's speaking to me about the
25 terms of a settlement of a potential civil claim.

1 **MS. DALEY:** Not yet. We're not there yet.

2 **MR. LEDUC:** Well, I don't know that. If
3 you're talking about when I received the letters, I --
4 maybe you could assist me and tell me when I received those
5 letters.

6 **MS. DALEY:** I'm operating on the assumption
7 that you've given us here, which is that your best and only
8 recollection of the events is captured in this document.

9 **MR. LEDUC:** Yes.

10 **MS. DALEY:** And what the document says is
11 that sometime after the initial meeting, you have contact
12 with Malcolm and then you go on to talk about receiving the
13 letter.

14 **MR. LEDUC:** Yes.

15 **MS. DALEY:** So I had assumed that you'd
16 received those letters prior to any settlement occurring.

17 **MR. LEDUC:** Well ---

18 **MS. DALEY:** Do you know?

19 **MR. LEDUC:** I don't know.

20 **MS. DALEY:** All right.

21 **MR. LEDUC:** I don't recall.

22 **MS. DALEY:** In any event, did you ever get
23 the sense that in his conversations with you, Malcolm was
24 trying to persuade you that the Silmsler complaint was not
25 correct and that Charles was innocent?

1 **MR. LEDUC:** That's correct; that was
2 Malcolm's position.

3 **MS. DALEY:** All right.

4 And in fairness, he's advocating on behalf
5 of his client, Father Charles, correct?

6 **MR. LEDUC:** Yes.

7 **MS. DALEY:** Did it occur to you that Malcolm
8 seemed to have inside knowledge of the progress of the
9 police investigation against Father Charles?

10 **MR. LEDUC:** He was providing me with this
11 information with respect to the investigation. Whether
12 that was inside knowledge or not, I don't know.

13 **MS. DALEY:** Did you wonder at all how he'd
14 have that information, how he'd be privy to it?

15 **MR. LEDUC:** I -- he was speaking with the
16 police.

17 **MS. DALEY:** I take it the other piece of
18 information that Malcolm gave you about the police matter
19 is this; he told you after the first settlement meeting
20 with the Bishop and others that there was insufficient
21 evidence for Cornwall Police to lay charges?

22 **MR. LEDUC:** Yes.

23 **MS. DALEY:** Do you recollect that?

24 **MR. LEDUC:** Yes.

25 **MS. DALEY:** And obviously, according to

1 Exhibit 1888, the first settlement meeting is August 24th.
2 Therefore, he's making this statement to you sometime
3 directly after August 24th; correct?

4 MR. LEDUC: Yes.

5 MS. DALEY: Correct?

6 And I take it, sir, you believe that that
7 information was true when you relied upon it?

8 MR. LEDUC: Yes. Subsequent to checking
9 with the Crown Attorney. Subsequently checking with the
10 Crown attorney, yes.

11 MS. DALEY: All right. All right.

12 As a result of the information Malcolm gave
13 you, you became less concerned about criminal charges
14 because it seemed there was no likelihood there would be
15 any; fair?

16 MR. LEDUC: Less concerned about them.

17 MS. DALEY: Right. And again this
18 information that you obtained from Malcolm purported to
19 come from his discussions with the police officer
20 investigating Father Charles?

21 MR. LEDUC: He did not tell me who he was
22 discussing it with. He just -- was referring to the
23 police.

24 MS. DALEY: All right. So whether it'd be
25 the investigating officer or someone else, a contact at the

1 police had told Malcolm this information; we likely don't
2 have enough to lay a charge. Was that your belief?

3 MR. LEDUC: This is what Malcolm was telling
4 me, yes.

5 MS. DALEY: I understand that. That's what
6 he conveyed to you?

7 MR. LEDUC: Yes.

8 MS. DALEY: Now, I'm going to get into the
9 settlement itself and the details just in a moment, but let
10 me ask you this, sir.

11 Did you perceive that Malcolm was telling
12 you this, i.e. no likely charges, because the first meeting
13 that you'd had with the Bishop where he was present had not
14 succeeded in convincing the Bishop to settle with Mr.
15 Silmsen? And that's because -- it's a long question -- but
16 the sticking point for the Bishop in that first meeting was
17 that he thought if money were paid, it would look like hush
18 money to stop the criminal charge.

19 MR. LEDUC: What's your question, sorry?

20 MS. DALEY: Let me ask a proper question
21 from that.

22 Clearly the -- at the first meeting with the
23 Bishop, the Bishop was stuck on the probability of -- the
24 possibility of a criminal charge and a perception that this
25 would be hush money. Is that fair?

1 **MR. LEDUC:** Yes.

2 **MS. DALEY:** And that's why he rejected it?

3 **MR. LEDUC:** Yes.

4 **MS. DALEY:** And immediately after that, you
5 hear from Malcolm that he's been told there's insufficient
6 evidence for the CPS to lay a charge; correct?

7 **MR. LEDUC:** But there is more to it than
8 that. The fact that he's obviously had another
9 conversation with Silmsen and he's come up with some
10 details of a proposed settlement.

11 **MS. DALEY:** That's fine and I'll come to
12 those settlements, but I'm just trying to address this
13 issue of the criminal charges and what you thought was
14 happening with it. All right?

15 **MR. LEDUC:** M'hm.

16 **MS. DALEY:** So after the Bishop rejects the
17 settlement idea because he's concerned about the hush money
18 perception, Malcolm comes to you fairly shortly after that
19 and says, "I've been told that there's insufficient
20 evidence and that there likely won't be a charge". Is that
21 the sequence?

22 **MR. LEDUC:** I don't recall the sequence, but
23 clearly that was information that Malcolm relayed to me,
24 yes.

25 **MS. DALEY:** I guess the only part about the

1 sequence that I'm concerned with here is that he relayed
2 that information to you after the first meeting with the
3 Bishop?

4 MR. LEDUC: That's correct.

5 MS. DALEY: All right.

6 MR. LEDUC: That's what I recall.

7 MS. DALEY: All right. Now, putting that
8 sequence together, did you perceive at all that Malcolm was
9 telling you this information about the unlikelihood of
10 criminal charges to get around the Bishop's concern?

11 MR. LEDUC: I don't believe so. That was
12 not how I received it. How it was intended by Malcolm is
13 something I can't address.

14 MS. DALEY: I'm not asking you to.

15 MR. LEDUC: Okay.

16 MS. DALEY: But I'm just asking if that was
17 your perception.

18 MR. LEDUC: That's not how I received it.

19 MS. DALEY: All right.

20 Sir, in the course of the Silmsler matter,
21 from the beginning through to the settlement, did you
22 perceive that the Bishop, Monsignor McDougald, and perhaps
23 others involved in this matter, held Malcolm in very high
24 esteem as a church member?

25 MR. LEDUC: I would not say that. I have no

1 reason to say that.

2 MS. DALEY: You saw nothing that led you to
3 think that?

4 MR. LEDUC: No.

5 MS. DALEY: All right.

6 So now, let's talk about the settlement
7 discussions in a little bit more detail and here's what I'm
8 trying to see if you can help us with.

9 I'm trying to get a handle on how the
10 settlement discussion started? Who made the first step?
11 When and why? And, in fact, you may not know this but I'm
12 just trying to see the extent in which you can help us with
13 this.

14 Now, you do tell us in Exhibit 1888 that
15 you're not aware of any negotiations as early as February.

16 Do you need some help with where that is?

17 MR. LEDUC: No, no. I have it.

18 MS. DALEY: All right. Do you agree with
19 what I've just said?

20 MR. LEDUC: Yes.

21 MS. DALEY: And to the best of your
22 knowledge, if indeed there was some settlement talk
23 happening at that time, it must have been with Malcolm;
24 correct?

25 MR. LEDUC: I know of no settlement

1 discussions during that period of time.

2 **MS. DALEY:** That's right. But your
3 speculations if you were -- as you did speculate a little
4 bit in this exhibit was, if it was happening, it involved
5 Malcolm?

6 **MR. LEDUC:** Do I say that in my ---

7 **MS. DALEY:** Let me help you. Under February
8 16th of your exhibit at Bates page 746, your February 16th
9 entry.

10 **MR. LEDUC:** Yes. I say, "They must have
11 been with Malcolm". Yes.

12 **MS. DALEY:** Right. And, again, if I could
13 ask you just ---

14 **MR. LEDUC:** Now, excuse me, I want to be
15 clear. My statement is in response to what was said
16 before, that the Diocese was not negotiating with the
17 complainant in the month of February.

18 In a statement in the newspaper from the
19 police at a later time, that on February 16th, the
20 complainant told them that he was negotiating a settlement
21 with the church officials was incorrect. If there were any
22 negotiations going on, they must have been with Malcolm
23 MacDonald; Malcolm MacDonald and David Silmser, not the
24 Diocese.

25 **MS. DALEY:** Malcolm MacDonald on behalf of

1 Charles MacDonald. Is that how it is?

2 MR. LEDUC: I don't know how it is but
3 that's what I'm saying here.

4 MS. DALEY: I understood that. I've got
5 that. I'm going to come back to that point in a moment.

6 Now, just to refresh your mind about Exhibit
7 312, we looked at that a moment ago this morning. It's
8 probably in the binder to your right.

9 MR. LEDUC: Yes, I have it.

10 MS. DALEY: Do you have that?

11 The top line of that document was Malcolm
12 telling Monsignor McDougald:

13 "As far as I'm concerned, I'll continue
14 to deal through your office unless I'm
15 told otherwise."

16 So is it possible that Malcolm MacDonald and
17 Monsignor McDougald were talking about a possible
18 settlement in February?

19 MR. LEDUC: I don't know that.

20 MS. DALEY: One would have to ask Monsignor
21 McDougald for that?

22 MR. LEDUC: I would think so.

23 MS. DALEY: Now, we do know that Mr. Silmsen
24 had been contacting Monsignor McDougald by phone. Is that
25 correct, sir?

1 **MR. LEDUC:** I recall Monsignor McDougald
2 saying that he had had some conversations with Mr. Silmser
3 by telephone, yes.

4 **MS. DALEY:** And your statement suggests that
5 in those -- in the conversation or the phone conversation
6 with McDougald and Silmser, Silmser seemed to be making
7 threats. And that's at the bottom of page 4 of the
8 statement.

9 **MR. LEDUC:** Yes.

10 **MS. DALEY:** Was he threatening Monsignor
11 McDougald?

12 **MR. LEDUC:** I don't know. This is relayed
13 to me by Monsignor McDougald.

14 **MS. DALEY:** All right. Do you recall if he
15 -- he, being McDougald -- said he'd felt threatened?

16 **MR. LEDUC:** No. I don't recall the
17 conversation.

18 **MS. DALEY:** That's fine. And it also
19 appears, does it not, sir, that Malcolm MacDonald has been
20 in contact with Mr. Silmser? And I take that -- sorry, let
21 me try to help you with that.

22 If you review the bottom of page 4 over on
23 page 5 of your statement, sir.

24 **MR. LEDUC:** What part?

25 **MS. DALEY:** Fourth paragraph down. You're

1 be -- what you say here is, in late August, Malcolm is
2 contacting you and he's telling you he thinks he can work
3 out a settlement with the complainant. So it follows he's
4 been in touch with Mr. Silmser?

5 MR. LEDUC: Which particular -- on page 5 of
6 my statement?

7 MS. DALEY: Yes. Fourth full paragraph.
8 "Sometime in late August, I was contacted."

9 MR. LEDUC: Yes.

10 MS. DALEY: All right. So it follows prior
11 to that time when Malcolm contacts you, he -- being Malcolm
12 -- is in touch with Mr. Silmser?

13 MR. LEDUC: Yes.

14 MS. DALEY: Correct? And Silmser, as you
15 say at the top of the page, had tried to communicate with
16 you as well but you declined to speak with him?

17 MR. LEDUC: Yes.

18 MS. DALEY: Now, is it the case that Malcolm
19 is negotiating with Mr. Silmser on Father Charles' personal
20 behalf?

21 MR. LEDUC: I don't know that. He's
22 representing Father Charles.

23 MS. DALEY: Precisely.

24 MR. LEDUC: And I don't know whether he's
25 negotiating or not.

1 **MS. DALEY:** Do you know if he had authority
2 from McDougald to negotiate on behalf of the church as
3 well?

4 **MR. LEDUC:** I don't know that.

5 **MS. DALEY:** Is it a possibility?

6 **MR. LEDUC:** I don't know that.

7 **MS. DALEY:** I take it that's something that
8 we'd have to ask Monsignor McDougald about?

9 **MR. LEDUC:** It would appear so.

10 **MS. DALEY:** Is there anyone else at the
11 church who might know that?

12 **MR. LEDUC:** I don't know.

13 **MS. DALEY:** I guess it occurred to me that
14 could it be appropriate for Malcolm, on behalf of a priest
15 alone, to make a private or a separate deal with a
16 complainant? Surely that would have to be disclosed and
17 approved by the Church. Am I wrong?

18 **MR. LEDUC:** I don't understand your
19 question.

20 **MS. DALEY:** All right. If Malcolm is
21 negotiating solely on behalf of Charles, is it appropriate
22 for a priest to make his own personal settlement with a
23 complainant outside of the purview of the Diocese?

24 **MR. LEDUC:** Yes.

25 **MS. DALEY:** Has that happened before to your

1 knowledge?

2 **MR. LEDUC:** I don't know; not in my
3 experience. Your question was, is it appropriate. A
4 priest is a citizen. He has civil rights and may exercise
5 those rights, including entering into settlements.

6 **MS. DALEY:** In this instance though, the
7 Church is going to be held vicariously liable for his
8 conduct. The conduct in question is in his capacity as a
9 priest. Is it your view that in those circumstances a
10 priest would be at liberty to negotiate his own private
11 deal with a complainant?

12 **MR. LEDUC:** Civilly, yes.

13 **MS. DALEY:** So you believe that's what was
14 happening here before Malcolm approached the Diocese?

15 **MR. LEDUC:** I don't know that.

16 **MS. DALEY:** All right.

17 Now, I want then to talk about the
18 settlement once the Diocese becomes involved. Sorry, let
19 me just back up before I move there; right.

20 Up to this point, being August 24th, whatever
21 has been happening on the negotiation front, you don't have
22 personal knowledge of.

23 **MR. LEDUC:** That's correct.

24 **MS. DALEY:** So if we were concerned to know
25 who initiated the settlement discussion and why, that's not

1 something that you could speak to at all.

2 MR. LEDUC: No.

3 MS. DALEY: All right.

4 Now, let's move to the Diocese's direct
5 involvement in the settlement. Would I be right, sir, that
6 prior to the first meeting -- I hope you know what -- I'm
7 using shorthand but I mean the first settlement meeting.
8 Prior to that first meeting, I take it, sir, the Bishop had
9 not asked you for any advice about whether he should be
10 settling or the Church should be settling with Mr. Silmsler.

11 MR. LEDUC: That's correct.

12 MS. DALEY: In the first meeting, a
13 settlement was proposed and it was, I gather, strongly
14 rejected by the Bishop; correct?

15 MR. LEDUC: Yes.

16 MS. DALEY: And according to your statement,
17 you were very angry about that rejection.

18 MR. LEDUC: I was angry, yes.

19 MS. DALEY: You were angry that the Bishop
20 had not agreed that a settlement with Silmsler should be
21 considered. Is that fair?

22 MR. LEDUC: Yes.

23 MS. DALEY: And you went on then to advocate
24 in, I think your words, very forcible terms to him at the
25 second meeting that he should entertain a settlement;

1 correct?

2 **MR. LEDUC:** Particularly because we had
3 specific terms of settlement.

4 **MS. DALEY:** All right. But I'll come to
5 those terms.

6 **MR. LEDUC:** Yes.

7 **MS. DALEY:** But a second meeting was
8 convened and was that at your request?

9 **MR. LEDUC:** At Malcolm's request that I
10 forwarded on to the Bishop who agreed to see us.

11 **MS. DALEY:** All right. So the sequence so
12 far is you haven't been asked for advice. There is a
13 meeting where a settlement is proposed. It's soundly
14 rejected by the Bishop and you leave that meeting somewhat
15 angry with his position. Fair enough?

16 **MR. LEDUC:** Yes.

17 **MS. DALEY:** And then -- sorry, I'm just
18 trying to find the -- is the date of the second meeting in
19 fact September 1, sir? I'm looking at page 6 of your
20 exhibit.

21 **MR. LEDUC:** I think it would have been --
22 I'm not sure of the date but I thought it was somewhere,
23 but it was after the 24th, 25th of August and I'm not sure if
24 -- I'm not sure of the actual date, no, but it was after
25 that.

1 **MS. DALEY:** Can you look at page 6 of
2 Exhibit 1888?

3 **MR. LEDUC:** Yes. It says September 1st.
4 Yeah, then ---

5 **MS. DALEY:** Is that likely the date?

6 **MR. LEDUC:** I'd be guided by that, yes.

7 **MS. DALEY:** All right.

8 **MS. HENEIN:** To be fair, my friend has
9 referred to page 5.

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **MS. DALEY:** We've got it. Your first
12 meeting is August 25. Your second meeting is September 1.

13 **MR. LEDUC:** Yes.

14 **MS. DALEY:** Is that what happened? All
15 right.

16 So I take it the Bishop agreed to meet with
17 yourself and Malcolm a second time.

18 **MR. LEDUC:** Yes.

19 **MS. DALEY:** And you set up that meeting, I
20 would assume?

21 **MR. LEDUC:** At Malcolm's request and at the
22 Bishop's acceptance, yes.

23 **MS. DALEY:** All right. So now you've taken
24 the issue back to him and effectively say you need to hear
25 us further on this. Is that fair?

1 **MR. LEDUC:** Well, actually, I told the
2 Bishop, "Malcolm has some specifics with respect to the
3 settlement. Do you want us to come down and speak with
4 you? Will you speak with us on this?" And he said, "Yes."

5 **MS. DALEY:** All right.

6 I take it though that the reason he rejected
7 it at the first go around was not for lack of specificity.
8 It was because he perceived the payment to be hush money.

9 **MR. LEDUC:** Well, you'd have to ask him that
10 but that's my understanding, yes.

11 **MS. DALEY:** Is that the impression he left
12 you with?

13 **MR. LEDUC:** Yes, yes.

14 **MS. DALEY:** Thank you.

15 So the fact that we now have specifics is
16 the premise to speak to him again or the rationale for
17 speaking to him again?

18 **MR. LEDUC:** Malcolm's request to speak with
19 him again, yes.

20 **MS. DALEY:** All right. And at that second
21 meeting, you told us that you advocated very forcefully
22 that the Bishop should change his mind and should agree to
23 this settlement.

24 **MR. LEDUC:** For a number of reasons, yes.

25 **MS. DALEY:** All right. Now, I want to

1 explore that.

2 Had something -- let me try it this way.

3 Had anything occurred between February 9th, '92 when you met
4 with Mr. Silmsler and September 1, '93 that had changed your
5 perception of the merits of Mr. Silmsler's allegations?

6 **MR. LEDUC:** No.

7 **MS. DALEY:** And had anything occurred during
8 that period of time that changed your perception or belief
9 about the likelihood that Father Charles was responsible
10 for what Silmsler had alleged?

11 **MR. LEDUC:** No.

12 **MS. DALEY:** Now, obviously the amount that
13 is proposed on September 1 is the \$32,000 amount; correct?

14 **MR. LEDUC:** Yes.

15 **MS. DALEY:** Of which only a portion would be
16 paid by the Diocese.

17 **MR. LEDUC:** Yes.

18 **MS. DALEY:** Twenty-seven thousand (27,000).

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

20 **MS. DALEY:** All right.

21 I take it from a -- not to be flip about it,
22 that was a settlement at a very, very good price. Did you
23 not agree with that?

24 **MR. LEDUC:** Well, that was certainly a very
25 strong part of my recommendation.

1 **MS. DALEY:** Right, because ---

2 **MR. LEDUC:** And I'm not talking about
3 attributing to \$32,000 any particular significance or
4 insignificance, but in light of civil litigation costs, it
5 was an amount that I would strongly recommend.

6 **MS. DALEY:** Certainly, it's an amount that
7 would be much, much less than a damage award if Silmsen was
8 able to successfully sue in a civil court; fair?

9 **MR. LEDUC:** Depending on the assessment of
10 damages, yes.

11 **MS. DALEY:** Correct. But I think you said
12 to my friend yesterday that often times damages in such
13 cases were considerably larger.

14 **MR. LEDUC:** Yes.

15 **MS. DALEY:** So you looked at it as a risk to
16 your client and an opportunity to mitigate a risk for a
17 very reasonable sum?

18 **MR. LEDUC:** Yes.

19 **MS. DALEY:** And was that primarily the
20 reason that you advocated this to the Bishop so forcefully
21 on September 1?

22 **MR. LEDUC:** It was certainly one of the very
23 strong arguments I put to him.

24 **MS. DALEY:** What were your other -- can you
25 recall any other arguments you put to him apart from the

1 monetary one?

2 **MR. LEDUC:** There was the monetary one.

3 There was also the issue that it would appear that part of
4 that money was going to assist for therapy, that to the
5 best of our knowledge at that time, Father Charles was
6 saying that this didn't happen and that a civil proceeding
7 would cause some difficulties for everyone. And basically,
8 that was the thrust of my argument; better to -- better --
9 what is the phrase -- better an uncomfortable settlement
10 than a terrible judgment or ---

11 **THE COMMISSIONER:** But your analysis with
12 respect to the financial considerations, would they not be
13 negated by the fact of insurance if there was insurance?

14 **MR. LEDUC:** If there was insurance -- well,
15 depending of course on the terms of insurance coverage.

16 **THE COMMISSIONER:** Yes, and the deductible.

17 **MR. LEDUC:** The deductible and the type of
18 coverage.

19 **THE COMMISSIONER:** I know, but ---

20 **MR. LEDUC:** Because usually, usually, I know
21 of no insurance coverage that includes criminal acts. So
22 if the claim was based on a criminal act, usually the
23 coverage would be denied.

24 **THE COMMISSIONER:** Well ---

25 **MS. DALEY:** I don't want to get into a

1 lengthy discussion of insurance but were you reasonably
2 familiar with the Diocese's insurance package at the time?

3 **MR. LEDUC:** No, not at all.

4 **MS. DALEY:** Okay. Would the insurance
5 respond if the Diocese had perhaps failed to supervise
6 Father Charles, such that harm occurred to the plaintiff?

7 In other words, if the case was presented on
8 the basis that the Diocese hadn't properly controlled
9 Father Charles or hadn't properly dealt with him, do you
10 know if the insurance would respond?

11 **MR. LEDUC:** That would be a matter of
12 looking at the insurance endorsement and description of
13 coverage and policy provisions relating to claims.

14 **MS. DALEY:** In advocating to the Bishop in
15 strong terms for the settlement, was confidentiality part
16 of what you put forth. In other words, the ability to
17 limit any harm to their reputation by having a private
18 settlement as opposed to a public civil trial?

19 **MR. LEDUC:** That discussion, I can only
20 surmise, dealt with the wish of both parties to have this
21 matter subject to a non-disclosure provision, and as is
22 demonstrated later by Mr. Silmser, he thought that was an
23 important part of the agreement.

24 **MS. DALEY:** Sir, did Malcolm also make
25 representations or arguments to the Bishop as to why the

1 settlement should be accepted?

2 MR. LEDUC: Yes. Yes.

3 MS. DALEY: Did he also push the Bishop?

4 MR. LEDUC: Yes, yes.

5 MS. DALEY: He made arguments similar to
6 your own?

7 MR. LEDUC: Yes.

8 THE COMMISSIONER: Ms. Daley, can we take
9 the morning break?

10 MS. DALEY: Absolutely. Good.

11 THE COMMISSIONER: Thank you.

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

14 The hearing will resume at 11:35 a.m.

15 --- Upon recessing at 11:18 a.m./

16 L'audience est suspendue à 11h18

17 --- Upon resuming at 11:35 a.m./

18 L'audience est reprise à 11h35

19 THE REGISTRAR: This hearing is now resumed.
20 Please be seated. Veuillez vous asseoir.

21 THE COMMISSIONER: Thank you. Yes, ma'am.

22 JACQUES LEDUC, Resumed/Sous le même serment:

23 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

24 DALEY (Cont'd/Suite):

25 MS. DALEY: Thank you, sir.

1 A few more questions on the D.S. settlement
2 -- I'm sorry, the Silmsers settlement.

3 Is this matter relating to your approach to
4 the Bishop and your strong advice to him to settle, is this
5 the first time you had ever offered advice to the Bishop
6 unasked?

7 **MR. LEDUC:** What do you mean "unasked"?

8 **MS. DALEY:** Unasked; in other words, the
9 Bishop wasn't looking for advice. You went to him, you and
10 Malcolm, and you both strongly suggested that he should
11 take your advice and settle with Silmsers. Is this the
12 first time that you had offered advice to the Bishop in
13 forceful terms, without being asked for advice?

14 **THE COMMISSIONER:** Okay, just a second.

15 **MS. HENEIN:** In my respectful submission,
16 that is not a fair characterization. It's not unsolicited
17 advice. You'd have an obligation to report to your client
18 if someone comes back to you and says, hey, I've got a
19 settlement for you.

20 So, in my respectful submission, it is wrong
21 to characterize it as an unsolicited bit of advice.

22 **THE COMMISSIONER:** All right. So -- well
23 you might be able to, at one point, but I think the point
24 is that yes, if Malcolm phones him up, he has an obligation
25 to speak to the client.

1 Once he gets into the room though, then it's
2 a different story.

3 **MS. DALEY:** I'm not questioning the setting
4 up of the meeting, and I appreciate you set the meeting up
5 because Malcolm wanted to say something to your client, the
6 Bishop.

7 But my question simply is this; at the
8 meeting, you've been very clear here, you gave strong and
9 forceful advice to the Bishop and, first go-around, he
10 rejected it. You came back a second time with the same
11 advice.

12 Is this the first time in your professional
13 relationship with the Bishop that that had occurred?

14 **MR. LEDUC:** Well, let's be clear. As you
15 refer it, the first go-around could not be described as
16 such. The first go-around, which was the meeting -- the
17 first meeting in August, was around whether or not my
18 client would agree to a settlement. And the answer was no,
19 end of story.

20 **MS. DALEY:** Right.

21 **MR. LEDUC:** The second meeting was to
22 discuss, according to Malcolm, specific terms of a
23 settlement, new information, and at that meeting, Malcolm,
24 as I've said, put forth what the terms of settlement could
25 be, and the Bishop requested my advice, which I gave to him

1 in very forceful terms, yes.

2 MS. DALEY: Is this the first time you had
3 given advice to the Bishop in strong and forceful terms?

4 MR. LEDUC: I recall one other instance
5 where I had given an opinion, a legal opinion, in strong
6 terms, yes, if you wish.

7 MS. DALEY: I'm assuming though, of course,
8 this is the first time you've ever given the Bishop very
9 strong and forceful advice about settling a claim?

10 MR. LEDUC: A claim in relation to these
11 types of allegations, yes.

12 MS. DALEY: Yes, all right.

13 MR. LEDUC: The only time, yes.

14 MS. DALEY: All right. Now, let me also
15 just go back to something that you told me before the
16 break, and I wasn't properly focused on it, but you had --
17 I had asked you whether or not the only source of
18 information you had about the police intention to charge
19 Father Charles MacDonald had come from Malcolm, and you
20 said, "well, but there was Murray MacDonald too."

21 Now, I just want you to clarify that. I had
22 understood from your evidence that your encounter with
23 Murray MacDonald was simply you telling him about a civil
24 settlement and him saying, "That's fine with us."

25 That's all you got from Murray. Is that not

1 fair, sir?

2 MR. LEDUC: Well, what I got from Murray
3 MacDonald was that I told him that I was acting in relation
4 to a civil settlement dealing with David Silmser ---

5 MS. DALEY: Yes?

6 MR. LEDUC: --- and Father Charles.

7 MS. DALEY: Right.

8 MR. LEDUC: And he said "Do what you have to
9 do."

10 MS. DALEY: Right, but he didn't tell you
11 that there was not going to be any criminal charges against
12 Charles?

13 MR. LEDUC: No, he did not say that.

14 MS. DALEY: All right. Thank you. I just
15 wanted to clarify that.

16 Now -- and then in terms of the second
17 meeting where the Bishop finally does accept your advice
18 and does agree to the settlement, I take it that the Bishop
19 addressed comments to you and was concerned about
20 confidentiality of the settlement. Is that not fair?

21 MR. LEDUC: Yes.

22 MS. DALEY: All right.

23 MR. LEDUC: Let's -- there was a discussion
24 about confidentiality and I indicated to the Bishop that a
25 confidentiality clause would address that issue and what

1 the consequences of the breach of such clause could be, if
2 I recall correctly.

3 **MS. DALEY:** Right. And sir, is that why in
4 the ultimate release that was signed, the confidentiality
5 clause suggested that Mr. Silmsler would have to forfeit his
6 32,000 if he breached it?

7 **MR. LEDUC:** Probably.

8 **MS. DALEY:** All right. So it was important
9 to have a confidentiality provision that had some teeth?

10 **MR. LEDUC:** Otherwise, they're void. There
11 has to be consideration given.

12 **MS. DALEY:** Right. But apart from the
13 consideration, presumably the consideration is the
14 settlement.

15 **MR. LEDUC:** Yes ---

16 **MS. DALEY:** The confidentiality obligation,
17 which Mr. Silmsler was asked to sign, would require a
18 penalty if he breached the confidence and that's
19 forfeiture.

20 **MR. LEDUC:** That's correct, which is usually
21 -- not always a standard provision but it occurs often,
22 yes.

23 **MS. DALEY:** And if I've understood correctly
24 exactly what the Bishop thought he was agreeing to, what he
25 was agreeing to is a settlement on the terms described,

1 that is to say, the 32,000 whereby Mr. Silmsner would give
2 up his right to a civil suit and maintain confidentiality.
3 That's what the Bishop wanted to achieve?

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

5 **MS. DALEY:** All right. Now, let's move to
6 talk about the release.

7 And to put you back in the place, I want to
8 speak about the provision to you of the release in an
9 envelope and what's done with that envelope. The fact you
10 don't look at it, et cetera, et cetera. That's what I want
11 to talk about now.

12 Now, one moment please. I just want to ask
13 my friend a question.

14 You recall yesterday, my friend showed you
15 an exhibit, which was a photocopy of the envelope itself.
16 I'm just going to see if I can get the exhibit reference,
17 so I can show it to you.

18 Do you remember seeing the envelope and
19 seeing that there was handwriting on it?

20 **MR. LEDUC:** Yesterday?

21 **MS. DALEY:** Yes?

22 **MR. LEDUC:** Yes. A photocopy, yes.

23 **MS. DALEY:** Yes. The handwriting says
24 something to the effect of to be opened only by the Bishop
25 or the Bursar?

1 MR. LEDUC: I believe so.

2 MS. DALEY: Do you recall that?

3 MR. LEDUC: And there was an initial.

4 MS. DALEY: And an initial. All right. Do
5 you know who -- thank you. That's Exhibit 1895. Thank
6 you.

7 Sir, do you know who put the handwriting on
8 that document?

9 MR. LEDUC: No, but ---

10 MS. DALEY: Is that your handwriting?

11 MR. LEDUC: --- the initials are G.B.

12 THE COMMISSIONER: And?

13 MR. LEDUC: And that's Gordon Bryan.

14 THE COMMISSIONER: Oh.

15 MS. DALEY: Does it occur to you then it's
16 likely Mr. Bryan who put that handwriting on it?

17 MR. LEDUC: Likely, yes. It's not my
18 handwriting, if that's what you're asking.

19 MS. DALEY: All right. That's what I wanted
20 to know.

21 MR. LEDUC: I don't print that well.

22 MS. DALEY: Did you suggest that Mr. Bryant
23 should put that label on the document?

24 MR. LEDUC: No.

25 MS. DALEY: But you were aware that he did?

1 **MR. LEDUC:** Subsequent to.

2 **MS. DALEY:** Do you have any information at
3 all about where Mr. Bryant would have stored this document?

4 **MR. LEDUC:** I thought in the personnel file
5 for Father Charles, but I don't know that.

6 **MS. DALEY:** All right, all right.

7 All right, so now let's talk about the
8 explanation that you provided us for not looking at the
9 signed document itself, and essentially your explanation is
10 that you trusted Malcolm.

11 **MR. LEDUC:** That's right.

12 **MS. DALEY:** Now, did Malcolm know in advance
13 of tendering the document to you that you did not intend to
14 open it or look at it?

15 **MR. LEDUC:** No.

16 **MS. DALEY:** At the time that Malcolm did
17 tender the document to you, obviously he knew that you had
18 not opened it and had not looked at it.

19 **MR. LEDUC:** No, he would not have known
20 that. He gave it to me and he left.

21 **MS. DALEY:** Did you and he have any
22 discussion about it?

23 **MR. LEDUC:** No. Well, when he came in I
24 said, "Is it all signed?" "Yeah." Sean Adams was there
25 and, "Thank you very much," and ---

1 **MS. DALEY:** All right. So he made
2 representations to you that it was properly signed and all
3 the material you required was there.

4 **MR. LEDUC:** Yes.

5 **MS. DALEY:** Did you indicate to him that you
6 intended to treat it in a confidential manner and not open
7 it?

8 **MR. LEDUC:** No.

9 **MS. DALEY:** All right. Now, obviously you
10 told us in chief that on a professional basis you'd only
11 had sporadic dealings with Malcolm on one or two real
12 estate transactions in the past. Correct?

13 **MR. LEDUC:** And I believe some estate
14 matters as well.

15 **MS. DALEY:** All right.

16 Were you aware that he had a close personal
17 friendship with his client, Father Charles?

18 **MR. LEDUC:** No.

19 **MS. DALEY:** Let me put a -- put this to you
20 in another context. I want to contrast what happened with
21 this release into another context and ask you this; if you
22 were engaged in a real estate or a commercial transaction
23 on behalf of the Diocese or anyone else, and the lawyer on
24 the other side told you that the closing documents were
25 fine, they're what you want, I take it you wouldn't operate

1 simply on the basis of trust. You would look at the
2 closing documents.

3 MR. LEDUC: It's not a proper comparison.

4 MS. DALEY: Well ---

5 MR. LEDUC: Because a closing document -- if
6 I'm buying a property, I'm the one who's going to the
7 Registry Office, so I have the documents with me. If I'm
8 selling I'm the one who prepared the documents and had them
9 signed.

10 MS. DALEY: All right. So let's imagine
11 we're settling a -- we're settling another civil lawsuit.
12 And would you accept another lawyer's word for settlement
13 documents in another civil suit? Would you not feel it was
14 important to look at the documents?

15 MR. LEDUC: Yes.

16 MS. DALEY: I take it what occurred here,
17 sir, was a unique occurrence. You had not settled the case
18 on this basis before without reviewing the settlement
19 documents and the release.

20 MR. LEDUC: It was unique in the sense that
21 I received the documents from Malcolm, trusted that they
22 were what they should have been; did not open them, gave
23 them to Gordon Bryan, and that was the end of the story.

24 MS. DALEY: I understand your rationale.
25 I've heard that. But is there any other case you've ever

1 been involved in, in which you did what you did here, and
2 not looked at a release or closing documents or settlement
3 documents?

4 **MR. LEDUC:** Not that I recall.

5 **MS. DALEY:** Thank you.

6 Now, obviously what happened here is that
7 your trust in Malcolm's word was misplaced. Correct?

8 **MR. LEDUC:** Apparently, yes.

9 **MS. DALEY:** And that Malcolm's
10 representation to you was incorrect concerning the contents
11 of the -- of the release.

12 **MR. LEDUC:** It was false.

13 **MS. DALEY:** It was false.

14 And both you and the Bishop relied on
15 Malcolm's representation. Correct?

16 **MR. LEDUC:** I relied on Malcolm's
17 representation.

18 **MS. DALEY:** And I presume through you the
19 Bishop relied as well.

20 **MR. LEDUC:** The Bishop relied on my
21 representation.

22 **MS. DALEY:** Correct. So you certainly -- no
23 doubt in your mind you relied on a representation from a --
24 from Malcolm that proved to be false.

25 **MR. LEDUC:** Correct.

1 **MS. DALEY:** And the consequences of doing
2 that were very negative for you.

3 **MR. LEDUC:** Disastrous.

4 **MS. DALEY:** From a professional point of
5 view you damaged your relationship with the client in a
6 significant way.

7 **MR. LEDUC:** You're talking with the Diocese?

8 **MS. DALEY:** Yes.

9 **MR. LEDUC:** Well, I was subsequently
10 retained on a number of matters.

11 **MS. DALEY:** It did affect the relationship
12 in a negative way, did it not?

13 **THE COMMISSIONER:** Well, it was an
14 embarrassing situation.

15 **MR. LEDUC:** It was a very embarrassing
16 situation ---

17 **MS. DALEY:** Right.

18 **MR. LEDUC:** --- yes.

19 **MS. DALEY:** And your own personal reputation
20 was -- was damaged because you had made public statements
21 that proved to be incorrect.

22 **MR. LEDUC:** That's correct.

23 **MS. DALEY:** And there's nothing worse, from
24 a lawyer's perspective, than to be in that position.
25 Correct?

1 **MR. LEDUC:** There is worse but that is
2 certainly embarrassing.

3 **MS. DALEY:** It's pretty bad. We need people
4 to rely on our word and we need to be seen as people of
5 integrity when we speak publicly. Correct?

6 **MR. LEDUC:** Yes.

7 **MS. DALEY:** Did you ever address Malcolm's
8 false representation with him? Did you go back to Malcolm
9 and say, "I relied on you as a professional and you've
10 falsely represented a state of facts to me"?

11 **MR. LEDUC:** No.

12 **MS. DALEY:** Did you make a complaint to the
13 Law Society concerning what Malcolm had done?

14 **MR. LEDUC:** The -- not a complaint, no, but
15 the matter surfaced in relation to the third-party claim
16 made against me.

17 **MS. DALEY:** I understand that.

18 **MR. LEDUC:** But I did not make a complaint -
19 --

20 **MS. DALEY:** Apart from the ---

21 **MR. LEDUC:** --- to the Law Society, no.

22 **MS. DALEY:** --- the proceedings that were
23 brought against you, you made no complaint about Malcolm.

24 **MR. LEDUC:** No.

25 **THE COMMISSIONER:** And why didn't you go and

1 see Malcolm and talk to him?

2 MR. LEDUC: Good question. In hindsight I
3 can't answer that.

4 MS. DALEY: I presume that your client
5 didn't direct you not to confront Malcolm over this.

6 MR. LEDUC: No.

7 MS. DALEY: Did your client tell you
8 anything about ---

9 MR. LEDUC: No, but in all fairness the
10 matter was litigious. I did refer the file to another
11 lawyer and in retrospect I suspect I just wanted to keep my
12 hands off of this issue.

13 MS. DALEY: If I could come at the problem
14 from just one further perspective, from the community
15 perspective because the community is reading press articles
16 about this problem as it unfolds.

17 And would you agree that as a result of
18 Malcolm's false representation, press articles were written
19 that were very critical of the Church's conduct and that
20 called into question the veracity of what the Bishop had
21 said and what you had said and, in effect, potentially
22 damaged the Church's reputation?

23 MR. LEDUC: Yes.

24 MS. DALEY: Now, sir, would you please look
25 at -- it's a new document -- 116255. This should be your

1 press release.

2 And, Madam Clerk, I'm not sure if notice was
3 received in time or not; I have hard copies of it if you
4 don't have that. One one six two five five (116255).

5 **THE REGISTRAR:** What Bates page is it?

6 **MS. DALEY:** Three zero five (305). There's
7 only two pages to the document. Do you have that?

8 Madam Clerk, you might also find it as
9 116292, same document.

10 **MR. SHERRIFF-SCOTT:** It's part of a larger
11 exhibit, Madam Clerk, and the Bates page is 1105163-64 of
12 that document number. The Diocese gave notice of that.

13 **MS. DALEY:** I don't care which document is
14 used; whatever is easier.

15 **THE COMMISSIONER:** I couldn't help but
16 notice that Mr. Sherriff-Scott was reading at arm's length
17 there. I don't know if it's the bifocals that are coming
18 into play, or ---

19 **MR. SHERRIFF-SCOTT:** My brain, sir.

20 (LAUGHTER/RIRES)

21 **THE COMMISSIONER:** Thank you.

22 Exhibit 1916 is a press release dated
23 January 24th, 1994.

24 --- **EXHIBIT NO./PIÈCE NO. P-1916:**

25 (1105163-64) Press release - 24 January 94

1 **MS. DALEY:** Sir, is the press release that
2 you issued after having learned of the criminal content of
3 the release?

4 **MR. LEDUC:** I believe so. Yes.

5 **MS. DALEY:** All right.

6 And you express the error that you had made
7 and your feelings about the fact that you had made that
8 error?

9 **MR. LEDUC:** That's correct.

10 **MS. DALEY:** All right.

11 Now, of course, your press release -- the
12 matter continued to be in the public eye because there
13 continued to be press articles concerning this new step in
14 the story; correct?

15 **MR. LEDUC:** Yes.

16 **MS. DALEY:** And, Madam Clerk, Document
17 722178, it should be a press article that follows the date
18 of Mr. Leduc's release, and I have copies of that for you.

19 **(SHORT PAUSE/COURTE PAUSE)**

20 **THE COMMISSIONER:** Thank you.

21 Exhibit Number 1917 is press clippings. One
22 is from the Ottawa Sun dated January 25th, 1994 and the
23 other one is from The Citizen dated January 26th, 1994.

24 **--- EXHIBIT NO./PIÈCE NO. P-1917:**

25 (722178) Press clipping from the Ottawa Sun

1 dated January 25th, 1994 and one from The
2 Citizen dated January 26th, 1994.

3 **MS. DALEY:** Sir, I'm going to have a
4 question or two for you about the Jacki Leroux article from
5 the Ottawa Sun. So that's the one on the right-hand side
6 of the screen.

7 And, Madam Clerk, if you could expand for
8 him the first and second columns of that article so that he
9 can see them?

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **MS. DALEY:** And in the fifth and sixth
12 paragraphs of the far left-hand column, you were commenting
13 on the error that had happened and you're admitting to a
14 lack of judgment, and then you say:

15 "I know you may find this difficult to
16 believe. Some would say we're lying,
17 but we're not", he said."

18 And I take it that that is something that
19 you did state at this press conference?

20 **MR. LEDUC:** If I'm quoted, not that I rely
21 for accuracy on the press, but ---

22 **MS. DALEY:** You don't doubt that words to
23 that effect ---

24 **MR. LEDUC:** That's correct.

25 **MS. DALEY:** --- were said?

1 And I'm only taking you there simply for
2 this point.

3 I take it, sir, you were the first to
4 appreciate and acknowledge that your version of what had
5 happened here, the not looking at the release, was going to
6 be difficult for people to believe?

7 **MR. LEDUC:** Yes.

8 **MS. DALEY:** And, sir, that's because what
9 had occurred wasn't businesslike. In other words, not
10 looking at the document would not be an ordinary course of
11 business approach; correct?

12 **MR. LEDUC:** Yes.

13 **MS. DALEY:** Let alone not looking at it and
14 then commenting in the national media sight unseen. That's
15 not businesslike. Would you agree?

16 **MR. LEDUC:** Yes.

17 **MS. DALEY:** And that would not be your
18 ordinary business practice?

19 **MR. LEDUC:** Yes.

20 **MS. DALEY:** I take it, sir, that Malcolm had
21 not been -- sorry, I need to re-orient you.

22 You'll recall you gave testimony yesterday
23 about the first press conference and the press release back
24 on January 14th where the Bishop said, amongst other things,
25 and you did as well, no intent to prevent criminal

1 proceedings.

2 Taking you back to that press release, you
3 gave testimony that you had shown it to Bryce Geoffrey.
4 You'd shown it to Mr. Adams. I take it Malcolm had not
5 been shown that draft release, had he?

6 MR. LEDUC: I don't recall.

7 MS. DALEY: Now, just a few ---

8 MR. LEDUC: But he was present at the press
9 conference.

10 MS. DALEY: Fair enough. Where the comments
11 were made?

12 MR. LEDUC: He was present, sitting, I
13 think, two chairs away from me ---

14 MS. DALEY: Did he ---

15 MR. LEDUC: --- at the table.

16 MS. DALEY: So at the press conference, when
17 those false statements were made, did he say anything?

18 MR. LEDUC: No.

19 MS. DALEY: Now, moving to another topic ---

20 THE COMMISSIONER: Before you do that ---

21 MS. DALEY: Sorry.

22 THE COMMISSIONER: So he didn't say anything
23 at the press conference. Did he phone you up later and
24 say, "Listen, Jacques, you'd better look at the envelope"?

25 MR. LEDUC: No.

1 **MS. DALEY:** Good question.

2 **THE COMMISSIONER:** All right.

3 **MS. DALEY:** So at no time did you get any
4 feedback from him?

5 **MR. LEDUC:** None.

6 **MS. DALEY:** Now, just a few questions for
7 you about the statement that was given to Scott & Aylen,
8 and that's the Exhibit 1888. And I'm not going to ask you
9 about the contents so much, sir, as the circumstances, but
10 by all means have it available if you need it.

11 At this point, of course, Scott & Aylen has
12 become involved in representing the Diocese in relation to
13 Silmsen; correct?

14 **MR. LEDUC:** Yes.

15 **MS. DALEY:** And did the Bishop direct you to
16 be interviewed and to give a statement to Mr. Annis?

17 **MR. LEDUC:** No.

18 **MS. DALEY:** Now, you gave testimony, I think
19 the very first day here, that at this point in time, being
20 February 2nd, interview date, '94, civil litigation had been
21 threatened and it was -- it seemed likely that Mr. Silmsen
22 would be suing the Church; correct?

23 **MR. LEDUC:** I'm not sure except that this
24 statement was given to Scott & Aylen to assist in the
25 transference of the file and to provide the information

1 that I had, yes.

2 **MS. DALEY:** Well, sir, I had understood that
3 the rationale for moving the matter to Scott & Aylen was
4 because you anticipated being a witness in a litigation
5 matter; correct?

6 **MR. LEDUC:** That, and I had a -- yes.

7 **MS. DALEY:** All right.

8 And I can find it for you, but ---

9 **MR. LEDUC:** Yes.

10 **MS. DALEY:** We marked one of your documents
11 to that effect yesterday; correct?

12 **MR. LEDUC:** Yes.

13 **MS. DALEY:** So certainly by the time you're
14 meeting with Scott & Aylen, you're anticipating civil
15 litigation between Silmsers and the Church in which you may
16 be a witness?

17 **MR. LEDUC:** As a matter of fact, I think in
18 my letter to the Bishop I say one of the reasons why he
19 must now retain other counsel is because ---

20 **MS. DALEY:** Precisely.

21 **MR. LEDUC:** --- I may be a witness, yes.

22 **MS. DALEY:** Precisely.

23 And you'd only be a witness in the event
24 that Silmsers had brought a civil proceeding against the
25 Church; correct?

1 **THE COMMISSIONER:** Well, more than a
2 witness. You must have advised your insurers at that
3 point, did you not?

4 **MR. LEDUC:** I know I advised them. I'm not
5 sure when, and then the rules were a little different than
6 they are today and I think then the rules, that you had an
7 obligation to put the Law Society -- well, not the Law
8 Society -- I'm not sure if it was called LPIC then -- when
9 you received the claim, then. Today it's quite different.
10 And I'm not sure when I put my insurers on notice.

11 **THE COMMISSIONER:** Okay. But you must have
12 realized that ---

13 **MR. LEDUC:** I made a mistake.

14 **THE COMMISSIONER:** M'hm. And that not only
15 might you be a witness, you may be, and as you were, on the
16 receiving end of the third-party notice?

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

18 **MS. DALEY:** So to follow on the
19 Commissioner's point, by February 2nd, '94 when you're
20 giving this statement to Scott & Aylen, can you not
21 anticipate that if the Church is sued by Mr. Silmsen, then
22 the release that you were involved in is very much an
23 issue; correct?

24 **MR. LEDUC:** Yes.

25 **MS. DALEY:** And you can also anticipate that

1 in that event, the Church would probably have no option but
2 to third party you because their insurer would require
3 that; correct?

4 MR. LEDUC: Yes.

5 MS. DALEY: So we can confirm that by this
6 point in early February, you anticipate being --
7 potentially being sued by your client?

8 MR. LEDUC: It was a distinct possibility.

9 MS. DALEY: All right. And the statement
10 was given with that knowledge?

11 MR. LEDUC: In part, yes.

12 MS. DALEY: All right.

13 Now, one of the things I did want to address
14 with you is this, and that has to do with what documents
15 you did or didn't have.

16 And I'd like you please to look at Exhibit
17 1914.

18 MR. LEDUC: Yes.

19 MS. DALEY: You recall that that was the
20 affidavit of documents that you swore in the litigation
21 when you were brought into it as a third party; correct?

22 MR. LEDUC: In September?

23 MS. DALEY: The Affidavit of Documents is
24 sworn November 2nd, 1995. Do you have Exhibit ---

25 MR. LEDUC: I'm talking ---

1 MS. DALEY: --- 1914?

2 MR. LEDUC: Sorry? Yes, which is a letter
3 from Scott & Aylen to me? One-nine-one-four (1914) or
4 1894?

5 MS. DALEY: One-nine-one-four (1914).

6 MR. LEDUC: Sorry. Can I have that, please?

7 MS. DALEY: Is it not amongst your books?

8 MR. LEDUC: Sorry.

9 (SHORT PAUSE/COURTE PAUSE)

10 MR. LEDUC: Yes.

11 MS. DALEY: So this is your Affidavit of
12 Documents sworn November 2nd, '95 and identifying in
13 Schedule "A" all of the documents in your possession which
14 you were prepared to produce; correct?

15 MR. LEDUC: Yes.

16 MS. DALEY: And if you look at your second
17 production, which should be Bates page 148 ---

18 MR. LEDUC: Yes.

19 MS. DALEY: --- we see the draft?

20 MR. LEDUC: Yes.

21 MS. DALEY: All right. Of the full release?

22 MR. LEDUC: Yes.

23 MS. DALEY: And if you turn over a few pages
24 with me and look at Bates page 152?

25 MR. LEDUC: Yes.

1 **MS. DALEY:** We see the completed and
2 executed full release and undertaking not to disclose.

3 **MR. LEDUC:** Yes.

4 **MS. DALEY:** And you produced that as well.
5 And ---

6 **THE COMMISSIONER:** So where did you get your
7 copy that you produced?

8 **MR. LEDUC:** Of the release?

9 **THE COMMISSIONER:** Yes.

10 **MR. LEDUC:** From Gordon Bryan.

11 **THE COMMISSIONER:** Okay.

12 **MS. DALEY:** How do you know that, sir?

13 **MR. LEDUC:** Well, that's how I found out.

14 **MS. DALEY:** How did Mr. Bryan give it to
15 you?

16 **MR. LEDUC:** Well, I called him and I asked
17 him to fax it to me immediately when Bryce Geoffrey called
18 me.

19 **MS. DALEY:** All right. So if you received
20 it by fax, should we not expect to see a fax imprint on it,
21 sir?

22 **MR. LEDUC:** Well, I can't explain that. I
23 mean it was eventually sent to my counsel and reproduced
24 here.

25 **MS. DALEY:** All right. So it's your

1 evidence that these materials were in your possession in
2 1995 by virtue of having received them from Mr. Bryan, not
3 in any other way?

4 **MR. LEDUC:** Not that I recall. And the
5 reason I say that is I -- I couldn't go to my file and get
6 a copy of the original and verify it so that I had to call
7 Gordon Bryan and say, "Fax me -- go and get the release and
8 fax it me so I can look at it."

9 **MS. DALEY:** I understand that. I'm just
10 testing your explanation because it did seem that you had
11 possession of them when the lawsuit was ongoing; correct?

12 **THE COMMISSIONER:** Did you answer that
13 question?

14 **MR. LEDUC:** Yes.

15 **MS. DALEY:** With a yes.

16 **THE COMMISSIONER:** Okay. I'm sorry. I was
17 looking down.

18 **MS. DALEY:** Sorry. It was a non-verbal
19 answer.

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

21 **MS. DALEY:** All right.

22 One more document I'd like you to look at,
23 sir, it is one we haven't canvassed yet. Madam Clerk,
24 110680.

25 **THE REGISTRAR:** Eight six zero (860)?

1 **MS. DALEY:** Six eight zero (680).

2 **THE COMMISSIONER:** Okay. Exhibit number
3 1918 is a fax cover sheet to Inspector Michael Fagan from
4 Jacques Leduc dated January 6th, 1995 and it's a two-page
5 document.

6 **--- EXHIBIT NO./PIÈCE No. P-1918:**

7 (110680) Reçu et quittance - 30 Mar 92

8 **MS. DALEY:** I apologize because I may have
9 made some error here in terms of the document but, sir, the
10 second page of this document should be in French, a receipt
11 and discharge.

12 **MR. LEDUC:** Yes.

13 **MS. DALEY:** And this is something that you
14 had provided to Inspector Michael Fagan of the OPP in
15 January of '95 from your file; correct?

16 **MR. LEDUC:** Yes, from -- yes.

17 **MS. DALEY:** All right. And -- my apologies
18 but there's also a letter of February 6th, '95 that you
19 wrote to Mike Fagan that accompanied it and I have that as
20 110682. Do you have that, Madam Clerk?

21 **THE REGISTRAR:** No, I don't.

22 **MS. DALEY:** All right. I undertake to
23 provide copies unless my friend has some extras.

24 Sorry. I understand it's within a larger
25 document which is 116272. I believe Mr. Lee gave notice on

1 that so hopefully we have a hard copy.

2 **THE REGISTRAR:** I do have excerpts of it.

3 **MS. DALEY:** Yes, you have two Bates pages.

4 That's what I'm looking for.

5 Is 116272 Bates pages 031 to 033, a letter
6 to Mr. Fagan from this witness, Mr. Leduc?

7 **THE REGISTRAR:** It's an Exhibit 863.

8 **THE COMMISSIONER:** You're saying it's in
9 Exhibit 863?

10 **MS. DALEY:** Yeah. My apologies for the
11 awkwardness here, sir; I've obviously made a mistake.

12 **THE COMMISSIONER:** Okay. So this is the
13 interview of Malcolm MacDonald; 863 is where you want to
14 go?

15 **MS. DALEY:** No, I'm not looking for the
16 interview of Mr. MacDonald.

17 **THE COMMISSIONER:** Well, that's 863.

18 **MS. DALEY:** Yeah, my apologies.

19 Madam Clerk, do you have -- could we look at
20 110682 and I will provide copies when we come back?

21 Thank you very much. Thank you.

22 **THE COMMISSIONER:** All right. So is this
23 going to be an exhibit or is it already an exhibit?

24 **THE REGISTRAR:** That will be 1919.

25 **THE COMMISSIONER:** Nineteen nineteen (1919)

1 is the letter dated February 6th, 1995 to Detective Mike
2 Fagan from Jacques Leduc.

3 --- EXHIBIT NO./PIÈCE No. P-1919:

4 (110682) Letter from Jacques Leduc to Mike
5 Fagan - 06 Feb 95

6 MS. DALEY: Do you see that on the screen,
7 sir?

8 MR. LEDUC: Yes.

9 MS. DALEY: All right. So let me try to
10 speed through this if I can.

11 On this date, you're providing Mike Fagan
12 with a photocopy of a release signed by a client of yours
13 which you had in your file and you've redacted the
14 particulars and you're telling him that this is something
15 in your file but you don't think this is something that you
16 gave to the other solicitor who I assume is Malcolm;
17 correct?

18 MR. LEDUC: That's correct.

19 MS. DALEY: So just to put us in
20 perspective, what's happening at this point is you've been
21 to an OPP interview that's dealt at length with the
22 release; correct?

23 MR. LEDUC: Yes.

24 MS. DALEY: And subsequent to that
25 interview, you're giving the document to Mr. Fagan because

1 he's requested it.

2 MR. LEDUC: Yes.

3 MS. DALEY: And the document that you're
4 giving to him, if you -- can you go to the next page of
5 that one, please?

6 MR. LEDUC: I have it.

7 MS. DALEY: Thank you. And that is a
8 release in French with the particulars redacted, dated
9 March 30th, 1992.

10 MR. LEDUC: Yes.

11 MS. DALEY: And I'm assuming, sir, that this
12 is a release on behalf of a client of yours for whom you
13 had settled the matter with another Diocese.

14 MR. LEDUC: That's correct.

15 MS. DALEY: Is that correct?

16 And is that one of the Quebec matters that
17 we spoke to?

18 MR. LEDUC: Yes.

19 MS. DALEY: All right.

20 And that settlement had preceded -- sorry,
21 let me back up. In that matter, had you been the author of
22 this release or had the Diocese put that release to you for
23 consideration?

24 MR. LEDUC: That was brought to me by the
25 Archdiocese, yes.

1 **MS. DALEY:** All right. And you were content
2 with it and your client signed off on it.

3 **MR. LEDUC:** Yes.

4 **MS. DALEY:** And that release did not contain
5 any obligations of confidentiality.

6 **MR. LEDUC:** No.

7 **MS. DALEY:** As I read it.

8 **MR. LEDUC:** This document does not.

9 **MS. DALEY:** All right. Did that settlement
10 though have other terms that were similar to the terms that
11 we see in the Silmsler settlement or do you know?

12 **MR. LEDUC:** I don't think I can discuss that
13 as a matter of privilege.

14 **MS. DALEY:** All right.

15 **THE COMMISSIONER:** Well, just a second now.
16 We're just talking about office practice. You've protected
17 the name of the client and so we want to know if your
18 practice differs from this one to another one. So if it's
19 generic in nature ---

20 **MS. HENEIN:** Commissioner, in my respectful
21 submission, the question as phrased would breach
22 solicitor/client privilege. If you're asked what did you -
23 - what were the terms of another settlement, if it were
24 asked in a broader way which is whether you had any
25 experience in the context of drafting releases of having a

1 non-disclosure clause, something of that effect, without
2 referencing a particular settlement, I think that would be
3 an appropriate question.

4 **THE COMMISSIONER:** Let's try that.

5 **MS. DALEY:** I'm not interested in the
6 financial terms of the settlement, sir. I'm just trying to
7 understand whether in this circumstance, as you recollect
8 it, there was also a confidentiality obligation imposed in
9 relation to the settlement.

10 **MR. LEDUC:** My recollection, in such
11 instances coming from the Province of Quebec, the
12 documentation is quite different.

13 **THE COMMISSIONER:** And what does that mean?

14 **MR. LEDUC:** And there are -- this one, I'm
15 trying to recall -- I don't recall if they were all the
16 same format in the Province of Quebec. That's my answer.
17 I don't recall if all of my dealings for clients in Ontario
18 dealing with matters in Quebec were all of the same format
19 or form.

20 **MS. DALEY:** Apart from the form itself, I
21 appreciate your point. Do you know whether, as a matter of
22 substance, this settlement or any of the others that you
23 were aware of, required the recipient to maintain
24 confidence?

25 **MR. LEDUC:** Not generally speaking, no.

1 **MS. DALEY:** All right.

2 Now, did you consider applying that
3 experience to your dealings with the Diocese of Alexandria-
4 Cornwall when it came to Mr. Silmsers?

5 **MR. LEDUC:** Very different circumstances.

6 **MS. DALEY:** All right. Presumably you never
7 suggested to the Bishop when you were persuading him to
8 settle with Silmsers that he should forego an obligation of
9 confidence because in Quebec that's how an archdiocese has
10 done it?

11 **MR. LEDUC:** No, that never came up.

12 **MS. DALEY:** All right. I'm almost finished,
13 sir.

14 Sir, when you were interviewed by the OPP in
15 August of '94 concerning your involvement in the Silmsers
16 release, did you understand why they were interviewing you,
17 what they were doing?

18 **MR. LEDUC:** They wanted my statement in
19 relation to the events that had occurred leading to the
20 Silmsers release.

21 **MS. DALEY:** And did you understand that they
22 were investigating potential charges as a result of the
23 content of the release?

24 **MR. LEDUC:** Not against me.

25 **MS. DALEY:** Did you understand they were

1 investigating potential charges against other people
2 involved in the release, such as Malcolm?

3 **MR. LEDUC:** You're asking me if they advised
4 ---

5 **MS. DALEY:** Yes.

6 **MR. LEDUC:** --- me before? I'd have to look
7 at the interview because I have no recollection.

8 **MS. DALEY:** The interview is Exhibit 1892.
9 I don't know if looking at that is going to help you with
10 my question though, but have a look.

11 **MR. LEDUC:** My recollection is correct. It
12 was in relation to the settlement.

13 **MS. DALEY:** Yes.

14 **MR. LEDUC:** So they wanted a statement in
15 relation to the settlement.

16 **MS. DALEY:** Right. Because they were
17 concerned as to whether someone, perhaps not yourself but
18 someone, had attempted to obstruct justice by including the
19 criminal content in the release; correct?

20 **MR. LEDUC:** Yes.

21 **MS. DALEY:** And the person they were
22 interested in was Malcolm?

23 **MR. LEDUC:** It would seem so, yes. Well,
24 I'm not ---

25 **MS. DALEY:** Did you have any ---

1 **MR. LEDUC:** I was never told that I was the
2 object of their investigation.

3 **MS. DALEY:** Understood.

4 So no caution or warning was given to you?

5 **MR. LEDUC:** No.

6 **MS. DALEY:** Now, did you discuss the release
7 and the events surrounding it with Malcolm before this
8 interview?

9 **MR. LEDUC:** No.

10 **MS. DALEY:** But by this point-in-time, this
11 being August of '94, you've already received and given
12 comments back to Mr. Annis at Scott & Aylen on your
13 statement; correct?

14 **MR. LEDUC:** Yes.

15 **MS. DALEY:** So you have, for want of a
16 better word, crystallized your version of the events;
17 correct?

18 **MR. LEDUC:** I've expressed my version of
19 events to the law firm.

20 **MS. DALEY:** In that document?

21 **MR. LEDUC:** Yes.

22 **MS. DALEY:** And you have that document
23 available to you at this interview, I'm assuming?

24 **MR. LEDUC:** I don't think so.

25 **MS. DALEY:** You don't? All right.

1 But did you review it before being
2 interviewed?

3 **MR. LEDUC:** I don't recall.

4 **MS. DALEY:** There's something that you did
5 say here that I just wanted to ask you about, and that's at
6 page 7 of the document, sir.

7 **MR. LEDUC:** Yes.

8 **MS. DALEY:** And it's fairly -- a somewhat
9 rambling part of your conversation, but if you look four
10 lines up from the bottom, what you're telling the officer
11 is that:

12 "...(pause) was my position and it
13 still is my position in relation to the
14 inadvertent inclusion of the word
15 "criminal" in the paragraph."

16 So you're telling him that the inclusion of
17 the word was inadvertent?

18 **MR. LEDUC:** That's what I'm saying.

19 **MS. DALEY:** But it was Malcolm who included
20 the word; correct?

21 **MR. LEDUC:** Yes.

22 **MS. DALEY:** And I'm going to suggest that
23 you couldn't really know whether it was advertent or
24 inadvertent on his part.

25 **MR. LEDUC:** You're right.

1 **MS. DALEY:** All right.

2 **THE COMMISSIONER:** In fact, given the fact
3 that you had a discussion with him about the word
4 "criminal", well, I guess it still could be inadvertent,
5 but ---

6 **MS. DALEY:** I rather had the impression from
7 what you told me maybe about half-an-hour ago that you
8 didn't think it was inadvertent. You felt that Malcolm
9 knew it was there and he had not been truthful with you
10 about it.

11 **MR. LEDUC:** How I feel now and how I felt
12 then is very different.

13 **MS. DALEY:** Well, back in 1994, was it your
14 belief that it may well have been intentional and that he
15 just had -- he told you a falsehood about it?

16 **MR. LEDUC:** I'm not sure at what point-in-
17 time I came to that conclusion.

18 **MS. DALEY:** But that is the belief you hold
19 today?

20 **MR. LEDUC:** Absolutely.

21 **MS. DALEY:** All right.

22 Just one final area. It's unrelated to what
23 we've been discussing, but it goes to something that you
24 said when you were asked questions by my friend about your
25 involvement with the Children's Aid Society on Project

1 Blue. You recall that?

2 And you had some discussion about
3 sacramental privilege. Do you recollect?

4 **MR. LEDUC:** Yes.

5 **MS. DALEY:** And to try to paraphrase it for
6 you quickly, the CAS had initially wanted to interview --
7 at least the notes that you were shown, right? You were
8 shown CAS notes, not your own, but it suggested that they
9 wanted to interview Monsignor McDougald and that you had
10 raised some difficulty about that because as the notes
11 stated, he didn't want to disclose confidences of priests.
12 You recall that discussion you had yesterday?

13 **MR. LEDUC:** Yes.

14 **MS. DALEY:** And I think what you said is,
15 "Well, that's not true. I mean, if Monsignor McDougald or
16 anyone else is asked questions, he has no legal privilege
17 to decline answering about something a priest has told
18 him"; correct?

19 **MR. LEDUC:** Outside of confessional.

20 **MS. DALEY:** Correct.

21 So that's what I -- I just want to
22 understand the sacramental privilege as you understand it
23 in canon law. That privilege, of course, is, as you say,
24 imposed on the priest; correct?

25 **MR. LEDUC:** Yes.

1 **MS. DALEY:** If a priest were to confess to
2 another priest about involvement in the abuse, sexual abuse
3 of another person, would that be covered by the privilege?

4 **MR. LEDUC:** Yes.

5 **MS. DALEY:** So in that event, if Priest A
6 confessed to Priest B, Priest B is precluded forever from
7 disclosing that to anyone for any civil purpose?

8 **MR. LEDUC:** Yes.

9 **MS. DALEY:** Those are my questions. Thank
10 you.

11 **MR. LEDUC:** Thank you.

12 **THE COMMISSIONER:** Thank you.

13 We'll take the lunch break. I know that Ms.
14 Henein has -- would like to have this finished by today, so
15 you might want to marshal your times and see how long we
16 want to sit tonight.

17 We'll come back at 2:00. Thank you.

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

20 This hearing will resume at 2:00 p.m.

21 --- Upon recessing at 12:21 p.m./

22 L'audience est suspendue à 12h21

23 --- Upon resuming at 2:04 p.m./

24 L'audience est reprise à 14h04

25 **THE REGISTRAR:** Order; all rise. À l'ordre;

1 veuillez vous lever.

2 This hearing is now resumed. Please be
3 seated. Veuillez vous asseoir.

4 **THE COMMISSIONER:** Mr. Horn.

5 **JACQUES LEDUC, Resumed/Sous le même serment:**

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

7 **HORN:**

8 **MR. HORN:** Yes, my name is Frank Horn and
9 I'm representing the Coalition for Action, a citizens
10 group. I'm sure you're aware of our organization.

11 I'd like to just go over something in a
12 brief way. I'd like to see the document -- the release
13 document. I think it's number 104355.

14 **THE COMMISSIONER:** What's the exhibit
15 number?

16 **MR. HORN:** Or Exhibit -- is it 263A, I
17 believe? That's what I was told.

18 **THE COMMISSIONER:** Two-hundred-and-sixty-
19 three (263)?

20 **MR. HORN:** I believe so.

21 **THE COMMISSIONER:** Sure. Okay.

22 **(SHORT PAUSE/COURTE PAUSE)**

23 **THE COMMISSIONER:** Well, 263 is a release.

24 **MR. HORN:** Yeah, the release, yes.

25 The one that was signed by ---

1 **THE COMMISSIONER:** Yeah.

2 **MR. HORN:** --- Silmsers and witnessed by Sean
3 Adams.

4 **THE COMMISSIONER:** Yeah.

5 **MR. LEDUC:** Yes, sir.

6 **MR. HORN:** Yes. In the document, on the
7 face of the document, can you show me where in this
8 document is the cause of action or the delict that we're
9 dealing -- that is being dealt with by this release?

10 **MR. LEDUC:** I'm not sure I understand your
11 question.

12 **MR. HORN:** Okay. What is the cause of
13 action that is being released by Mr. Silmsers? Is there
14 anything in this document that indicates what it is that is
15 being released by Mr. Silmsers?

16 **MR. LEDUC:** There is a release from all
17 actions or causes of actions ---

18 **MR. HORN:** Is there any ---

19 **MR. LEDUC:** --- which may have been
20 sustained by, in consequence of conduct, behaviour or act
21 done by Father Charles MacDonald, et cetera.

22 **MR. HORN:** Okay. So we're then saying that
23 if Charles MacDonald were to assault Mr. Silmsers outside
24 the building, this would be covered?

25 **MR. LEDUC:** I don't think that would be an

1 accurate representation of the intention of this document.

2 **MR. HORN:** I understand that, but if you
3 read on the face of the document, there is nothing
4 directly, specifically, dealing with the issue that this
5 document was supposed to be dealing with?

6 **MR. LEDUC:** There's the ---

7 **MR. HORN:** That was the allegations of the
8 sexual abuse.

9 **MR. LEDUC:** There's is no specific
10 expression ---

11 **MR. HORN:** That's right. Isn't that right?

12 **MR. LEDUC:** That's correct.

13 **MR. HORN:** So what you've really done is
14 you've given carte blanche to the Diocese and Mr. -- Father
15 Charles that no matter what Mr. Silmsner were to do, now and
16 forever, this document would preclude him from ever
17 charging either the Diocese or Mr. Silmsner -- Mr. -- or the
18 Diocese with anything; charge him or sue?

19 **THE COMMISSIONER:** Okay. Just a minute.

20 Yes, Ms. Henein.

21 **MS. HENEIN:** I think I lost the thread of
22 the question, but it's also an inaccurate statement of the
23 law. It doesn't protect you forever of all future harm.

24 **THE COMMISSIONER:** You're right. Well, I
25 think it's very specific in here ---

1 **MS. HENEIN:** Right.

2 **THE COMMISSIONER:** --- that it talks about
3 future injury as a consequence ---

4 **MS. HENEIN:** That's right.

5 **THE COMMISSIONER:** -- of the -- so it should
6 read -- well, it does read:

7 "For any loss or injury which may have
8 been or may **have** to be sustained by me
9 in consequence of any conduct,
10 behaviour or act done to me directly or
11 indirectly by Father Charles MacDonald
12 and by other agents."

13 -- et cetera.

14 **MR. HORN:** It would seem like at any time?

15 **THE COMMISSIONER:** No.

16 **MS. HENEIN:** No.

17 **THE COMMISSIONER:** No, I'm sorry, Mr. Horn.

18 **MR. HORN:** Okay then. But it's still a very
19 general statement which does not specifically deal with
20 what it is that he is signing away, his rights to deal
21 with.

22 **THE COMMISSIONER:** Well, now, just a second.
23 He's dealt away:

24 "...any recourse for any act done to me
25 directly or indirectly by Father

1 Charles MacDonald."

2 So in the past -- I agree with you that he
3 is being absolved, I suppose ---

4 **MR. HORN:** Of anything that could have ever
5 been done.

6 **THE COMMISSIONER:** In the past.

7 **MR. HORN:** In the past or -- but also it
8 mentions "to be incurred".

9 **THE COMMISSIONER:** No, but -- no sir.
10 That's if there are further damages. So for example, if he
11 were to fall into a major depression and the doctor says,
12 "Ah well, it's a result of this alleged abuse that
13 occurred", you could not re-sue for the damages of that
14 depression after this settlement. So it has to be arising
15 from the injuries he sustained from Father MacDonald.

16 **MR. HORN:** But there was nothing
17 specifically that pointed directly at what it was that was
18 being dealt with in this release. It did not mention the
19 sexual assault or any kind of sexual improprieties on the
20 part of the priest or in the Diocese, also being one of the
21 parties to this. There's nothing that specifically does
22 that, does it?

23 **MR. LEDUC:** No.

24 **MR. HORN:** Okay. So when -- now when this
25 document was being prepared, it was being prepared by

1 yourself and Malcolm MacDonald; right?

2 **MR. LEDUC:** Yes.

3 **MR. HORN:** And then it was like faxed back-
4 and-forth and you were looking at it and checking it over,
5 making sure it was right. How many times did it go back-
6 and-forth?

7 **MR. LEDUC:** As I said yesterday, I don't
8 recall how many times.

9 **MR. HORN:** So you had a great deal of
10 opportunity to go through the document and to make sure it
11 was done properly?

12 **MR. LEDUC:** Yes.

13 **MR. HORN:** Okay. And it seems like
14 everybody was focussing in on the fact that the criminal --
15 the word "criminal" was in there, but really it doesn't
16 even mention it in the delict or the cause of action. It's
17 just a general document here that absolves the priest and
18 the Diocese?

19 **MR. LEDUC:** The formulation of the release
20 is one that is used currently and is generally accepted as
21 being the proper formulation of the release.

22 **MR. HORN:** Okay. But we're dealing with a
23 situation in which there's two lawyers, they're involved in
24 drafting this up and they're dealing with someone who does
25 not have a lawyer. Now, when this -- when you were

1 negotiating back-and-forth with Malcolm MacDonald, where
2 was Silmsler at that time?

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

4 **MR. HORN:** So it was just between the two of
5 you. You were having conversations. You weren't getting
6 input from Silmsler as to what he wanted in the document?

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

8 **MR. HORN:** So really what you were doing is
9 you were putting the best document you could put forth to
10 defend the interests of Charles MacDonald and the Diocese?
11 You were putting your heads together making sure that they
12 would be protected?

13 **MR. LEDUC:** I was looking after the
14 interests of my client.

15 **MR. HORN:** I understand that. And Mr.
16 Silmsler was going to be given this document and then you
17 would say, "Take it or leave it. This is the document you
18 either sign it or don't sign it."

19 **MR. LEDUC:** I wouldn't say that in those
20 words. He had expressed to Mr. MacDonald what he -- the
21 terms upon which he wished to settle. We reflected those
22 terms in this release, and then he had the opportunity to
23 obtain independent legal advice.

24 **MR. HORN:** Okay. Not only independent legal
25 advice but it seems there was an explanation -- a further

1 explanation that went into the letter that went to the
2 police department and also the acknowledgement and the
3 releases. That was further done. Who prepared those --
4 the releases and the acknowledgement and the letters to the
5 police department?

6 **MR. LEDUC:** Well, I think clearly the full
7 release and undertaking, the acknowledgement, the
8 certificate of independent legal advice were prepared by
9 me. And my evidence was that I had not seen the letter
10 directed to the police that day.

11 **MR. HORN:** Okay. So you prepared all the
12 documents except that one document?

13 **MR. LEDUC:** Well, I think I've just been
14 very specific. I prepared the full release, undertaking
15 not to disclose, and I believe there was a certificate of
16 independent legal advice and an acknowledgement of having
17 received such advice.

18 **MR. HORN:** Okay. So then that was sent to
19 Malcolm MacDonald?

20 **MR. LEDUC:** Yes.

21 **MR. HORN:** And then his job was to get in
22 touch with Sean Adams?

23 **MR. LEDUC:** I don't know what his job was.

24 **MR. HORN:** Well, he -- it seems that it went
25 to Sean Adams then.

1 **MR. LEDUC:** Ultimately, it did.

2 **MR. HORN:** You didn't do it?

3 **MR. LEDUC:** No.

4 **MR. HORN:** Okay. So you then were relying
5 on Malcolm MacDonald to get a hold of Sean and get him to
6 do the letter -- the acknowledgement and to send the letter
7 off to the police department. Do you know who it was that
8 ---

9 **THE COMMISSIONER:** Whoa, whoa, just a
10 second.

11 Ms. Henein?

12 **MS. HENEIN:** Mr. Leduc has now been
13 testifying for three-and-a-half days. He's repeatedly
14 indicated that he did not see that letter. He did not
15 author that letter. It was not contained in the package
16 that he received. And so my friend has misstated the
17 evidence.

18 **THE COMMISSIONER:** Mr. Horn?

19 **MR. HORN:** I'll just ask the question.

20 Well, he did answer part of it. He did say
21 that he's the one that drafted the acknowledgement and the
22 certificate of independent legal advice. Isn't that right?

23 **MR. LEDUC:** Yes.

24 **MR. HORN:** And the letter that was sent to
25 the police, which was signed by Mr. Silmsler and witnessed

1 by Sean Adams, you never saw that?

2 MR. LEDUC: Not until later on, until
3 January of '94.

4 MR. HORN: Okay. So were you aware -- was
5 there any discussion between you and Mr. Malcolm MacDonald
6 about who it was that was going to be used for the
7 independent legal advice?

8 MR. LEDUC: No, not initially. I was
9 advised after Mr. Adams agreed to see Mr. Silmser.

10 MR. HORN: Okay, and the -- so are you then
11 saying that the document, which is headed "Full Release and
12 Undertaking not to Disclose" is not really the full
13 document. The full document is the other two documents
14 that you drafted up, the Acknowledgement and the
15 Independent Legal Advice?

16 MR. LEDUC: I don't understand what you mean
17 by full document, except that there were three documents
18 that I provided to Mr. Macdonald, which are standard
19 documents which usually accompany a full release.

20 MR. HORN: Okay, you prepared them and you
21 were then delegating the job of getting those documents to
22 a third person?

23 MR. LEDUC: That's not correct. I was not
24 delegating anything. I was providing Mr. MacDonald with
25 the documents that were to be signed and executed, having

1 obtained independent legal advice.

2 As I've said before, the condition of this
3 settlement for my client was that it be signed with the
4 proviso that Mr. Silmsler obtained independent legal advice.

5 **MR. HORN:** So why would you never put into
6 it that you wanted to have the charges dropped against --
7 not the criminal charges; I'm talking the specific charges
8 against -- that were pending against or were going to come
9 against Charles MacDonald?

10 **MS. HENEIN:** Sorry. I don't understand the
11 question.

12 **THE COMMISSIONER:** Me neither, that's what I
13 was going to say.

14 **MR. HORN:** Okay.

15 **THE COMMISSIONER:** Try it again.

16 **MR. HORN:** Why was that not specifically
17 laid out in the documentation that you prepared?

18 **MR. LEDUC:** Why was what not specifically --
19 -

20 **MR. HORN:** The acts that were being dealt
21 with by this -- these documents?

22 **MR. LEDUC:** There was no requirement to
23 describe specifically the cause of action.

24 **THE COMMISSIONER:** No, no, no. I think what
25 he means -- let me help you out here.

1 **MR. HORN:** Yeah.

2 **THE COMMISSIONER:** He means Mr. Silmser
3 testified that, as far as he's concerned, part of the
4 agreement was that he was to go to the police station and
5 tell them to stop everything and then go back and sign a
6 letter, and things like that. So is that right?

7 **MR. HORN:** Yes.

8 **THE COMMISSIONER:** Is that what you're
9 getting -- so what he's saying is why wasn't there a clause
10 in this final release laying that out?

11 **MR. LEDUC:** Because that wasn't part of the
12 agreement, Mr. Horn.

13 **MR. HORN:** Agreement between who?

14 **MR. LEDUC:** Between the Diocese, my client,
15 and Mr. Silmser. That was not part of the agreement.

16 **MR. HORN:** Okay. So there was an agreement
17 that was drafted up between you and Malcolm MacDonald and
18 prepared by yourself -- you and Mr. MacDonald, and it went
19 back and forth and then you presented it to him. Did he --
20 if he had gone to -- let's say he had gone to another
21 lawyer and said, "I will not accept it," what would have
22 happened?

23 **MR. LEDUC:** We would have had ---

24 **MS. HENEIN:** How is that relevant?

25 **MR. HORN:** Well, it would have been

1 circumstances that could have arisen because you were
2 asking for independent legal advice and let's say the --
3 the lawyer who was chosen said, "This is not a very good
4 deal. Don't sign it." You could have done that? He would
5 have done it? You would have accepted that?

6 **MS. HENEIN:** I'm not (off mic) the
7 Commission and quite frankly I lost the thread of the
8 question halfway through.

9 **MR. HORN:** So I think it's quite simple. If
10 he had refused to sign it -- this was prepared by you and
11 Malcolm MacDonald. You talked about it. You faxed back
12 and forth. You said, "This is the final draft".

13 What if he then went and spoke to a lawyer
14 and said, "I'm not accepting it," would the deal have
15 dropped right there?

16 **MR. LEDUC:** My experience, Mr. Horn, is that
17 I have had occasion to be asked to give independent legal
18 advice to a person, once I had explained the nature and
19 extent of the document, refused to sign it. And the result
20 is the document doesn't get signed.

21 **MR. HORN:** Okay, so that would have happened
22 if ---

23 **MR. LEDUC:** I can't tell you if that would
24 have happened. I can tell you that this is my experience
25 in relation to a competent solicitor offering independent

1 legal advice.

2 MR. HORN: So Sean Adams or another lawyer
3 could have killed the deal by telling Silmsers not to sign
4 it because it's a bad deal?

5 MR. LEDUC: I don't -- I would not agree
6 with your phraseology, but I can tell you that if Mr.
7 Silmsers had or if Mr. Silmsers receives advice that leads
8 him to believe that he should not sign the document, then
9 it's up to him to decide to sign it or not with or without
10 -- in accordance with or contrary to the advice he's given.

11 MR. HORN: Okay. When you were negotiating
12 and discussing the wording of the document with Malcolm,
13 did the two of you ever say I wonder what Silmsers thinks of
14 what we're deciding for him?

15 MR. LEDUC: No, not at all.

16 MR. HORN: So you were not even considering
17 what he would think or say?

18 THE COMMISSIONER: Well, I want to save you
19 some exercise.

20 MS. HENEIN: Thank you. Yes, thank you.

21 THE COMMISSIONER: Mr. Horn, settlements are
22 adversarial process. So I would think, yes, that Mr.
23 MacDonald, Malcolm, and this gentleman, Mr. Leduc, would
24 throw in as many clauses as they could to protect their
25 clients and hence the reason why they insisted -- well, the

1 evidence is so far or Mr. Leduc's -- that he gets
2 independent legal advice.

3 I mean that's -- I don't know any lawyer who
4 would say I'm going to write this up in a way that will
5 hurt my client.

6 **MR. HORN:** Okay. There's \$32,000 here
7 that's involved. Why didn't they take some of that money -
8 - why wouldn't you take some of that money and say, "We are
9 going to hire you a lawyer, and we are going to negotiate
10 with a lawyer." Why wasn't that done? And hire you a
11 lawyer who is really independent, and he will negotiate
12 with us.

13 Why wasn't that done?

14 **THE COMMISSIONER:** All right. Hold on.
15 Now, we'll let Mr. Kozloff go first.

16 **MR. KOZLOFF:** I'm not sure Mr. Horn is aware
17 of the evidence at the Inquiry because some of it predates
18 his arrival on the scene, but in one of his introductory
19 remarks, there is nothing which has identified the fact
20 that it was Mr. Silmser who chose Mr. Adams.

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

22 **MR. KOZLOFF:** So perhaps if Mr. Horn asks
23 his questions with that in mind, we may get past this point
24 to the next one.

25 **THE COMMISSIONER:** All right. Would you

1 have any further comments?

2 **MS. HENEIN:** That would be the comment that
3 it is Mr. Silmser who chose Mr. Adams and secondly I don't
4 know what the basis is that you are supposed to take money
5 -- sorry -- excuse me, Mr. Horn -- take money and pay it to
6 hire counsel for another party.

7 I just don't understand the basis of this
8 theory.

9 **THE COMMISSIONER:** Mr. Horn, I don't know of
10 any legal practice where that would occur. I mean you can
11 insist that he gets independent legal advice, but you can't
12 insist on having him go to lawyer A because that would be
13 brimming his -- or curbing his freedom to pick whoever he
14 wanted to.

15 But you are free to comment, sir.

16 **MR. HORN:** Pardon?

17 **THE COMMISSIONER:** You can come back and
18 tell me something.

19 **MR. HORN:** Yeah, well, I'm concerned that
20 the -- that this individual ---

21 **MR. LEDUC:** Mr. Leduc?

22 **MR. HORN:** Yes, Mr. -- this -- I'm not
23 talking about -- I'm talking about Mr. Silmser.

24 **THE COMMISSIONER:** Oh, that individual,
25 okay.

1 **MR. HORN:** Yeah, this individual was dealing
2 with two experienced lawyers. They were drafting documents
3 and -- and now, all of a sudden, they're -- he is presented
4 with this document, and the document is put there to him
5 and he is put into a position where he has not been
6 negotiating while the document was being formulated, put
7 together and he was just given the document to sign.

8 I just want to know; do you think that was a
9 fair process to put Mr. Silmsler in that position?

10 **MR. LEDUC:** That was not the process.

11 **MR. HORN:** Pardon?

12 **MR. LEDUC:** That was not the process.

13 **MR. HORN:** The process was then he was
14 represented throughout by somebody. Is that what you're
15 saying?

16 **MS. HEINEN:** I'm not sure that Mr. Horn
17 understands that individuals can enter into civil
18 settlements and not be represented. People can go to trial
19 and face murder charges unrepresented and have senior
20 counsel and a judge go through the process and they make
21 Charter arguments on their own. So I'm not sure I
22 understand where the theory is that this is an
23 extraordinary process, an unusual process or, more
24 importantly, an unfair process.

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

1 **MR. HORN:** Unfair for Mr. Silmsers?

2 **THE COMMISSIONER:** No. Mr. Horn, as I've
3 indicated to you, it's in an adversarial process. People
4 who draft up agreements draft them to protect their
5 clients, and to further protect his client, he insisted
6 that Mr. Silmsers go and see a lawyer and review the
7 documents.

8 So at that point, that's his chance to
9 counter and say, "No, I'm not signing this. No, I want
10 this out. I want that out and I want this in."

11 **MR. HORN:** Okay. Did you expect that to
12 happen?

13 **MR. LEDUC:** Did I expect what to happen?

14 **MR. HORN:** Did you expect him to come back
15 with a counteroffer in the negotiations, with another
16 document saying, "This is what I want. I don't accept
17 this." Did you expect some negotiations to go on?

18 **MR. LEDUC:** No, because Malcolm MacDonald
19 represented that this was the information he had received
20 from Mr. Silmsers and that this proposal was Mr. Silmsers's
21 suggestion.

22 **THE COMMISSIONER:** Well, Mr. Silmsers's
23 suggestion was ---

24 **MR. LEDUC:** Through Malcolm MacDonald.

25 **THE COMMISSIONER:** --- \$32,000.

1 **MR. LEDUC:** Yes.

2 **THE COMMISSIONER:** Are you attributing to
3 Mr. Silmsler that he gave further instructions on what
4 should be in the settlement agreement?

5 **MR. LEDUC:** No, the settlement and the
6 \$32,000 came from Mr. Silmsler. He was prepared to settle
7 for \$32,000, yes.

8 **THE COMMISSIONER:** For \$32,000. But are you
9 saying that he gave some input as to what would be in the
10 legal document?

11 **MR. LEDUC:** Not that I know of.

12 **THE COMMISSIONER:** There you go.

13 **MR. HORN:** Okay. Was it open to have that
14 kind of negotiations in this situation back and forth,
15 where he could get a lawyer? Was it open to that kind of
16 bargaining to go on between Mr. Silmsler and yourself and
17 Malcolm MacDonald?

18 **MR. LEDUC:** Yes, he could have instructed
19 his counsel, Mr. Adams, to do something else.

20 **MR. HORN:** And get legal advice telling him
21 that this is a bad offer and -- were you expecting a
22 counteroffer of any kind?

23 **MR. LEDUC:** Well, first of all, I don't know
24 what Mr. Adams told him. I don't know what advice Mr.
25 Adams gave him, and I don't recalling having any

1 discussions as to whether or not there was to be a
2 counteroffer.

3 **MR. HORN:** In your instructions from the
4 Diocese from the Bishop, did he instruct you in any regards
5 to what would be in the document concerning the cause of
6 action? Did he tell you he didn't want anything in that
7 document to be mentioning the cause of action and the facts
8 surrounding that cause of action?

9 **MR. LEDUC:** No.

10 **MR. HORN:** He gave you no instructions in
11 that regard?

12 **MR. LEDUC:** No.

13 **MR. HORN:** So he allowed you to make that
14 decision?

15 **MR. LEDUC:** Those were my instructions, to
16 prepare ---

17 **MR. HORN:** What were your instructions?

18 **MR. LEDUC:** As I said on numerous occasions
19 now, to prepare the settlement and the documents in
20 relation to what was being proposed by Mr. Silmser.

21 **MR. HORN:** Was there any instructions as to
22 how many copies of this document were to be signed and be
23 copies? Was there anything that was said about this --
24 the original and how many copies?

25 **MR. LEDUC:** Not by the Bishop.

1 **MR. HORN:** What about you?

2 **MR. LEDUC:** Well, I think the process would
3 be that each party would have an original document.

4 **MR. HORN:** Okay. So that would be the ---

5 **MR. LEDUC:** Well, I think that's three.

6 **MR. HORN:** There was three copies then?

7 **THE COMMISSIONER:** Well, just a minute. Are
8 you saying there were three copies or are you putting it to
9 him?

10 **MR. HORN:** I'm asking him.

11 That means there was two copies or three?

12 **MR. LEDUC:** Well, I don't know how many
13 originals were actually created by Mr. MacDonald. All I
14 know is that we received one original copy of the documents
15 -- one original signed document.

16 **MR. HORN:** So you don't know if out there,
17 there may be one or two or three or many other documents
18 out there that are duplicates?

19 **MR. LEDUC:** Of the original?

20 **MR. HORN:** Of the original.

21 **MR. LEDUC:** I don't know how many were
22 copied by Adams or by Mr. MacDonald.

23 **MR. HORN:** So whatever you had, you just --
24 all you did was give it to the Diocese and they just put it
25 away and you never touched it? You never looked at it?

1 **MR. LEDUC:** That's right.

2 **MR. HORN:** But you don't know what happened
3 to the other public copies that were made?

4 **MR. LEDUC:** No.

5 **MR. HORN:** And signed. Did you ever find
6 out how many copies were signed?

7 **MR. LEDUC:** I never inquired.

8 **MR. HORN:** Now, leading up to the signing of
9 this document, you had a -- well, there was the ad hoc
10 committee meeting with Mr. Silmser.

11 **MR. LEDUC:** You're talking about the
12 February 9th meeting?

13 **MR. HORN:** Yes.

14 **MR. LEDUC:** Yes.

15 **MR. HORN:** Okay. And in that -- in that,
16 you indicated that he -- you -- he felt there was some
17 animosity that existed between you and him?

18 **MR. LEDUC:** I didn't say that.

19 **MR. HORN:** There were some bad feelings that
20 were there?

21 **MR. LEDUC:** I didn't say that.

22 **MR. HORN:** Okay. Then what kind of feelings
23 did you get?

24 **THE COMMISSIONER:** Well, first of all,
25 before we go any further, I think the evidence is, when we

1 look through the documents, is that Malcolm MacDonald was
2 saying that he was ---

3 **MR. HORN:** That he was the golden ---

4 **THE COMMISSIONER:** --- that Mr. Silmsler was
5 angry with Mr. Leduc because he asked him hard questions,
6 things like that. So we have some evidence that Mr.
7 Silmsler wasn't happy with Mr. Leduc, but if you're asking
8 if Mr. Leduc had any hard feelings with Mr. Silmsler or what
9 were the feelings that Mr. Leduc thought were being shared
10 at the meeting, I think you've got to be clear about that.

11 **MR. HORN:** Okay. So when you were
12 negotiating or when you were drafting up the documents, you
13 were aware that that was -- that was out there? Malcolm,
14 had he already told you that Mr. Silmsler already had those
15 feelings about you?

16 **MR. LEDUC:** No.

17 **THE COMMISSIONER:** Well, I'm sorry; the
18 evidence -- I thought in Malcolm MacDonald's evidence in
19 the documents he said, "Look, I'm going to be the white-
20 haired guy, and so I'm going to talk to him and I'm going
21 to do the thing." And I think that occurred before you
22 went and seen the Bishop to negotiate the last \$32,000
23 settlement.

24 So I think if that follows, you would have
25 been aware before you drafted the documents that Mr. ---

1 **MR. LEDUC:** I don't believe so, Mr.
2 Commissioner.

3 **THE COMMISSIONER:** Okay. That's fair.
4 That's fair.

5 **MR. HORN:** You weren't aware?

6 **MR. LEDUC:** Well, I wasn't aware nor was I
7 made aware of the comments that were subsequently recorded
8 by an interview with Mr. MacDonald.

9 **THE COMMISSIONER:** Okay. Fair enough.

10 **MR. HORN:** Okay. So you wouldn't have been
11 aware -- so that there would have been that added
12 adversarial relationship that you would have with Mr.
13 Silmsler because he was -- not only was he the other party,
14 but there was also those feelings?

15 **MS. HEINEN:** Mr. Leduc has now testified
16 several times during the course of Commission counsel
17 questioning him that it was his perception that it was a
18 cordial, polite relationship, which is entirely in accord
19 with Mr. Silmsler's evidence of his perception of Mr. Leduc
20 before this Commission.

21 So I don't know where my friend is going
22 with this or the relevance, again, of it.

23 **THE COMMISSIONER:** Mr. Horn, can we get to
24 somewhere?

25 **MR. HORN:** Well, I was just trying to

1 establish that not only was there an adversarial
2 relationship because Mr. Silmsler was the other party, but
3 also, there was some -- maybe some bad feelings that were
4 there too besides the fact that you were adversaries in
5 this legal relationship, which would mean -- which would be
6 more incumbent upon you to make sure that he would be
7 getting some very independent legal advice and
8 representation?

9 **THE COMMISSIONER:** I don't know about that.

10 **MR. HORN:** Pardon?

11 **THE COMMISSIONER:** What you're saying is,
12 you're putting it to him in a cross-examination.

13 **MR. HORN:** Right.

14 **THE COMMISSIONER:** Monsieur Leduc, I put it
15 to you that you didn't like this guy and he didn't like
16 you, and therefore ---

17 **MR. HORN:** It would have been more incumbent
18 upon you to make sure that this individual would be
19 properly represented in negotiating with somebody who was -
20 - he was in not only in an adversarial relationship
21 legally, but also there was bad blood between the two of
22 them.

23 **THE COMMISSIONER:** And your answer is?

24 **MR. LEDUC:** That's not the case.

25 **THE COMMISSIONER:** Thank you.

1 **MR. HORN:** Okay. Now, in the run-up to the
2 -- having these documents signed, you did meet with Murray
3 MacDonald?

4 **MR. LEDUC:** Yes.

5 **MR. HORN:** Okay. Murray is a criminal
6 lawyer, isn't that right?

7 **MR. LEDUC:** He's a Crown Attorney.

8 **MR. HORN:** But he deals with criminal law?

9 **MR. LEDUC:** He's a Crown Attorney.

10 **MR. HORN:** Okay. So any discussions that
11 you would have with him would centre around whether there
12 was going to be any criminal proceedings against Mr. --
13 against your client and against Charlie -- Father Charlie?

14 **MR. LEDUC:** No. I wanted to alert the Crown
15 Attorney that I was entering into a nego -- well, a civil
16 settlement, and to advise him of the fact. And his
17 reaction, as I've said, is that he had no -- that I was to
18 do what I had to do.

19 **MR. HORN:** Okay. So you then got
20 instructions to do that from the Bishop?

21 **MR. LEDUC:** I had already had my
22 instructions I believe at the time.

23 **MR. HORN:** To speak to Murray MacDonald?

24 **MR. LEDUC:** No, that is something I took
25 upon myself.

1 **MR. HORN:** Okay. So you were -- you were
2 waiving privilege then?

3 **MR. LEDUC:** Waiving privilege?

4 **MR. HORN:** Well, talking about ---

5 **MR. LEDUC:** That was part of the exercise in
6 my due diligence.

7 **MR. HORN:** So you then had a conversation
8 about a file, it's confidential information, and you were
9 discussing it with Murray MacDonald?

10 **MR. LEDUC:** Well, that happens frequently.

11 **MR. HORN:** And you were discussing it and it
12 was really centred on the criminal charges that were
13 against Father Charlie?

14 **MR. LEDUC:** Well, no, I understood at that
15 time that there was a police investigation.

16 **MR. HORN:** Were you aware that it was a --
17 the police investigation was almost being culminated in
18 charges against Father Charlie?

19 **THE COMMISSIONER:** Wait a minute. Wait a
20 minute.

21 You're saying -- you're putting to him that
22 the charges were about to be laid?

23 **MR. HORN:** Charlie MacDonald -- Father
24 Charlie -- I mean Malcolm MacDonald was saying, "I didn't
25 want my client to be handcuffed if he was going to be

1 arrested". Wasn't that right?

2 **THE COMMISSIONER:** There was that
3 discussion, but there's still that whole body of evidence
4 that we heard from the Cornwall Police about where they
5 were with their investigation.

6 **MR. HORN:** But wasn't Malcolm afraid that
7 there was the -- the investigation was almost to the point
8 where they were going to come and arrest Father Charlie?
9 Did you know that?

10 **MR. LEDUC:** No, sir.

11 **THE COMMISSIONER:** Did you know what?

12 **MR. HORN:** Did you know that there were --
13 there was fear that he was going to be arrested and that he
14 didn't want him to be taken away in handcuffs?

15 **MR. LEDUC:** No, sir.

16 **MR. HORN:** You didn't know that?

17 **MR. LEDUC:** No, sir.

18 **THE COMMISSIONER:** Didn't know what?

19 **MR. HORN:** Didn't know that the arrest was
20 pending and it was just about ready to be culminated.

21 **THE COMMISSIONER:** Mr. Horn, I have not
22 heard a shred of evidence that that's the case. Mr.
23 Malcolm MacDonald may have been under -- had a conversation
24 with the police saying, "Listen, if you're going to arrest
25 him, could we please do it so we'll just surrender up and

1 so we don't have to do the handcuffing?"

2 Mr. Manderville?

3 **MR. MANDERVILLE:** You're correct, Mr.

4 Commissioner. Constable Sebalj's notes of August 23, '93
5 make reference to a phone call between herself and Malcolm
6 MacDonald where he makes that offer, "If you get to that
7 point, could you please refrain from having him handcuffed?
8 We'll offer him up."

9 **THE COMMISSIONER:** Right. So, sir, there is
10 that conversation. So Mr. Malcolm MacDonald may have had
11 thoughts in his mind that his client is about to be
12 arrested but the evidence from the Cornwall Police clearly
13 shows that they weren't about to arrest him anytime soon.

14 **MR. HORN:** Were you aware of any of this?

15 **MR. LEDUC:** Not at that time.

16 **MR. HORN:** That was never told to you by
17 Malcolm ---

18 **MR. LEDUC:** No, Malcolm ---

19 **MR. HORN:** --- in any conversations?

20 **MR. LEDUC:** As I said, Malcolm stated to me
21 that the investigation was being completed.

22 **MR. HORN:** There was some discussions
23 regarding the Deslauriers preliminary hearing but you were
24 there as a -- what was it? How did you describe that?

25 **THE COMMISSIONER:** Watching brief.

1 **MR. HORN:** Watching brief, okay.

2 How did you know they were getting to the
3 point where there was going to be -- confidence was going
4 to be breached or was -- there was something that was
5 coming on? How would you know that?

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

7 **MR. HORN:** There was some -- you felt that
8 there was something in which -- may have been said in
9 confession and that was going to come out?

10 **THE COMMISSIONER:** Okay.

11 **MR. HORN:** How did you know that?

12 **THE COMMISSIONER:** Okay. So let's just
13 situate ourselves. We're at the preliminary inquiry. The
14 defence lawyer has gone -- Mr. Brisson is in the box.
15 Monsieur -- I forget what his name is -- gets up ---

16 **MR. HORN:** Charlebois, that's right.

17 **THE COMMISSIONER:** --- and says, "Look it"
18 and says something about you need not say anything that
19 happened in the confessional, which may or may not have
20 been the state of law at that time.

21 **MR. HENEIN:** Just to situate it, Mr.
22 Thibault has also already testified. So Mr. Brisson is now
23 the next witness up.

24 **THE COMMISSIONER:** Yeah, okay.

25 **MR. HORN:** Okay. The question is, how did

1 you know what was the content of the confession when you
2 weren't a party to it?

3 **THE COMMISSIONER:** To the confession?

4 **MR. HORN:** Yes. How would he suspect that
5 there was going to be a breach of confession if you were
6 not the -- you're not either the priest or the person who
7 went to the priest? You were a third party. How would you
8 know and suspect that there was going to be a breach?

9 **MR. LEDUC:** The questions put to the witness
10 in cross-examination by defence counsel included
11 information that may have been received by the accused
12 during confession. The subject matter was of a sexual
13 nature. I believe it may have been -- I forget if it was
14 masturbation or -- so that I concluded that that
15 information may have been given by Deslauriers to his
16 counsel for the purpose of cross-examination.

17 So that would have been, I think, to an
18 astute observer, a conclusion that would easily have been
19 come to.

20 **THE COMMISSIONER:** But you know that if
21 Deslauriers told that to his lawyer that he'd be breaching
22 his responsibility as a priest?

23 **MR. LEDUC:** That's right.

24 **MR. HORN:** But you're only surmising. You
25 were guessing because you weren't party to the confession?

1 **MR. LEDUC:** No, I was not.

2 **MR. HORN:** So you were jumping in into a
3 situation and stopping a process in a preliminary hearing
4 and did you jump in at that time and stop it so that you
5 could talk to this individual who was on the stand?

6 **MS. HENEIN:** Perhaps my friend should take a
7 look at the transcript. We've gone through this.
8 Commission counsel went through it in detail. We went
9 through the fact that the Crown was approached. They asked
10 about it. They authorized it. Comments are made on the
11 record. The judge is alerted to it.

12 Commissioner, you asked a number of
13 questions about it. My friend is misstating the entirety
14 of the evidence on this issue.

15 **THE COMMISSIONER:** Mr. Horn? Let's be clear
16 here, Mr. Horn. I'm not -- I certainly encourage you to
17 ask as many questions as you want. It's just that you have
18 to be factually correct when you put it to him and so the
19 way you put it was not the way the transcript reflects it
20 happening.

21 Mr. Lee?

22 **MR. LEE:** To be fair, sir, when Ms. Henein
23 says that the -- all of the evidence has been canvassed
24 here with Mr. Leduc, it is not because Benoit Brisson
25 testified here.

1 **THE COMMISSIONER:** Yes.

2 **MR. LEE:** That has not been put to him yet
3 and the transcript from the preliminary inquiry and Mr.
4 Brisson's evidence here are not always in line.

5 **THE COMMISSIONER:** No, that's true.

6 **MR. LEE:** When I get up, given that I
7 represent Mr. Brisson, I'll be putting his testimony here
8 to Mr. Leduc and asking for comment and question him on
9 that, but I don't think just -- I don't want the perception
10 left that the preliminary inquiry transcript is the be all
11 and end all of what happened.

12 **THE COMMISSIONER:** No, no, of course not.
13 Of course not. But when you're putting something to a
14 witness you have to make sure that it's accurate.

15 **MR. HORN:** Okay. Were you sent there by the
16 Bishop?

17 **MR. LEDUC:** Yes, to the preliminary inquiry.
18 I gather you're referring to the prelim.

19 **MR. HORN:** And was your job to make sure
20 that -- that there was no breach of confidence?

21 **MR. LEDUC:** No.

22 **MR. HORN:** Breach of canon law?

23 **MR. LEDUC:** No.

24 **MR. HORN:** Was that your job?

25 **MR. LEDUC:** No.

1 MR. HORN: So you were there to watch what?

2 MR. LEDUC: I had a watching brief.

3 MR. HORN: I understand that, but to -- to
4 make sure that the individual that was on there was not
5 going to breach canon law or breach confidence that --
6 because of what was said in confessions?

7 MR. LEDUC: No.

8 MR. HORN: Is that your purpose?

9 MR. LEDUC: No.

10 MR. HORN: Pardon?

11 MR. LEDUC: No.

12 MR. HORN: So what is it that you're
13 watching out for?

14 MR. LEDUC: I was there to observe the
15 proceedings, receive the information and report to the
16 Bishop as to any matters which may be of legal interest to
17 the Diocese.

18 MR. HORN: I don't know if these were
19 questions that were put to you by others, but you're
20 Knights of Columbus?

21 MR. LEDUC: Yes.

22 MR. HORN: So is Malcolm MacDonald?

23 MR. LEDUC: I believe so.

24 MR. HORN: You were the same -- of the same
25 lodge?

1 **MR. LEDUC:** We don't have lodges. They're
2 called councils.

3 **MR. HORN:** Okay, council?

4 **MR. LEDUC:** And no.

5 **MR. HORN:** Okay. And what about Sean Adams?

6 **MR. LEDUC:** Yes, he's a -- as far as I know,
7 he's a Knight of Columbus, yes.

8 **MR. HORN:** And was he in the same council
9 with you?

10 **MR. LEDUC:** Yes, he was in the same council
11 I was in.

12 **MR. HORN:** There was one -- there was one
13 question that was given -- was asked of you regarding canon
14 law.

15 If a priest in confession confesses to
16 someone who had molested him and he's a priest, is that a
17 high-order breach? Would that bring very heavy
18 consequences if that would have happened?

19 **MR. LEDUC:** I'm not sure of your question,
20 but let me rephrase it for myself and you tell me what
21 you're answering -- what you're questioning. Are you
22 asking me whether or not a confessor receives ---

23 **MR. HORN:** The confessor being the priest.

24 **MR. LEDUC:** Yes -- receives a confession ---

25 **MR. HORN:** From someone that he has been a

1 perpetrator of.

2 MR. LEDUC: Right.

3 MR. HORN: Would that priest be in heavy
4 jeopardy?

5 MR. LEDUC: Yes. It's called solicitation
6 during a confessional and he would be excommunicated
7 immediately.

8 THE COMMISSIONER: One second.
9 You're saying soliciting -- what he's saying

10 ---

11 MR. LEDUC: Well ---

12 THE COMMISSIONER: No, the act has already
13 occurred.

14 MR. LEDUC: Oh, okay. Sorry.

15 THE COMMISSIONER: Is that right?

16 MR. HORN: Yes, that's right.

17 THE COMMISSIONER: The act's already
18 occurred. In walks the young person, let's say or the
19 victim, and confesses to the priest.

20 MR. HORN: That's right.

21 THE COMMISSIONER: Whether it's about --
22 about what? About ---

23 MR. HORN: The subject or anything that --
24 well, whatever. I mean, we don't know what's going to
25 happen between the two of them.

1 **THE COMMISSIONER:** Well ---

2 **MR. HORN:** Can he take a confession? Yeah,
3 I know, but can he take a confession?

4 **THE COMMISSIONER:** Well, what's the
5 relevance of that?

6 **MR. HORN:** Well, the -- yes.

7 **THE COMMISSIONER:** Well, okay.

8 **MS. HENEIN:** Everyone's standing up.

9 There is -- in my respectful submission,
10 this is not a relevant question. It's not relevant to the
11 mandate. Mr. Leduc is not an expert in canon law and many
12 of the questions that my friend is asking have been asked
13 over the past three days, and I recall at the outset of
14 this the instruction that we not repeat ourselves when
15 we're going through cross-examination.

16 **THE COMMISSIONER:** Mm'hm.

17 **MR. HORN:** Okay. Well, I was going to ask
18 one other question along this line, and that was if a
19 priest is -- let's say, what do they call it, defrocked?
20 Does he -- he's not allowed to take confessions after that?
21 He loses his right to be a priest?

22 **THE COMMISSIONER:** This -- you can ask ---

23 **MR. HORN:** Is that what happens?

24 **THE COMMISSIONER:** He's defrocked?

25 **MR. HORN:** He's defrocked.

1 **MR. LEDUC:** Well, if you mean by "defrocked"
2 he is no longer a cleric ---

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

4 **MR. LEDUC:** --- so he's been removed from
5 the clerical state, he cannot exercise any sacramental
6 ministry.

7 **MR. HORN:** Okay.

8 **MR. LEDUC:** That is reserved to a priest.

9 **MR. HORN:** Okay. What happens to the
10 position that he had prior to being defrocked with some
11 individual? Does that open him to talk about some of the
12 stuff that happened after he's been defrocked? He's no
13 longer a priest.

14 **MS. HENEIN:** I renew my objection about the
15 relevance of this. There have been experts in this area
16 that have testified, been cross-examined. This is an
17 inappropriate question for Mr. Leduc.

18 **THE COMMISSIONER:** You wish to comment on
19 that?

20 **MR. HORN:** Well, he was the only --
21 considered the only lawyer in the area that was trained in
22 this area. He's a -- he's a canon lawyer. I mean, he
23 should know something.

24 **THE COMMISSIONER:** I'm sorry. I'm sure
25 Monsieur Leduc knows a lot of things, but he's not here as

1 an expert on canon law.

2 But just out of curiosity, what you're
3 asking is if a priest has been removed, is he still bound
4 by the doctrine of confidence?

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

6 **THE COMMISSIONER:** Do you know the answer?

7 **MR. LEDUC:** Sacramental privilege is
8 forever.

9 **THE COMMISSIONER:** Is forever. There you
10 go.

11 **MR. HORN:** Okay.

12 Now, one other question I have in that area,
13 and that's when Deslauriers was sent from here to Ottawa to
14 be under Bishop Proulx ---

15 **THE COMMISSIONER:** Actually it's Hull, but
16 okay.

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

18 Now, in doing so was he -- was there a
19 relationship between Mr. Deslauriers and Mr. Proulx? Did
20 they know each other from the past, do you know?

21 **MR. SHERRIFF-SCOTT:** The last part of
22 question I don't have a problem with. It's the
23 misstatement of the evidence, saying he was sent to Hull.

24 **THE COMMISSIONER:** Right.

25 **MR. SHERRIFF-SCOTT:** Okay, that didn't

1 happen. It's not the evidence. The last part, I suppose,
2 is fair game.

3 **MR. HORN:** Okay, was he -- were they -- were
4 they friends?

5 **MR. LEDUC:** I don't know that, except that
6 when Bishop Proulx had Father Deslauriers as a -- I think
7 his secretary, he was the Bishop's secretary.

8 **MR. HORN:** Just -- do you think it was wise
9 for Father Deslauriers to be sent to that particular
10 bishop?

11 **THE COMMISSIONER:** He wasn't sent.

12 **MR. HORN:** A friend of his.

13 **THE COMMISSIONER:** No, the word "sent" is
14 the objection.

15 **MR. HORN:** Oh, I'm sorry. I'm not a -- I
16 don't understand "sent", "excardinated"; I don't know what
17 they all mean.

18 **THE COMMISSIONER:** He was excardinated from
19 here and incardinated elsewhere.

20 **MR. HORN:** Okay. Well, he went from here to
21 Ottawa, from one bishop to another bishop.

22 **THE COMMISSIONER:** All right.

23 **MR. HORN:** Right, okay.

24 **THE COMMISSIONER:** In layman's terms.

25 **MR. HORN:** He went from one bishop to

1 another bishop.

2 MR. LEDUC: Yes.

3 MR. HORN: Okay. When he went to the new
4 bishop, this new bishop was a friend of his?

5 MR. LEDUC: Well, I -- he was a former
6 bishop of his. That's all I can tell you.

7 MR. HORN: Okay.

8 So do you know if that friendship would --
9 in any -- using your knowledge of the situation, would that
10 be a wise thing to have been done, to send somebody like
11 him to a friend of his, when he has done -- has been
12 charged here and convicted and then sent there to a friend?
13 Is that proper, do you think?

14 MS. HENEIN: That is not a proper question
15 to ask Mr. Leduc.

16 I don't know, Mr. Commissioner, if you would
17 entertain a few moments so I can consult with my colleagues
18 -- an earlier break.

19 THE COMMISSIONER: Sure.

20 MS. HENEIN: Thank you.

21 THE COMMISSIONER: We'll stand for the
22 afternoon break.

23 THE REGISTRAR: Order; all rise. À l'ordre;
24 veuillez vous lever.

25 This hearing will resume at 3:10 p.m.

1 --- Upon recessing at 2:55 p.m./

2 L'audience est suspendue à 14h55

3 --- Upon resuming at 3:15 p.m./

4 L'audience est reprise à 15h15

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

7 This hearing is now resumed. Please be
8 seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you.

10 **JACQUES LEDUC, Resumed/Sous le même serment**

11 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. HORN**
12 **(cont'd/suite):**

13 **MR. HORN:** Maybe I don't understand a lot of
14 the words that are used. I wasn't raised in the Catholic
15 faith but I'll try to do the best I can to ask a question.

16 I know that in the denomination that I
17 belong to, the congregation has to be told when money is
18 being expended in any way. There is accountability that
19 exists for the congregation.

20 I just want to know if you had any idea that
21 the \$32,000 or whatever it is the Diocese was spending, do
22 you know if the -- there's an accountability of any sort
23 before that money could go out?

24 Does the Bishop has carte blanche. Can he
25 just say, "I'm paying this amount" and not ask anybody or

1 does he have to speak to the parishioners regarding their
2 tithes and offerings?

3 MR. LEDUC: In the instance of a \$32,000
4 expenditure, the Bishop has full jurisdiction.

5 THE COMMISSIONER: To your knowledge?

6 MR. LEDUC: To my knowledge, yes.

7 MR. HORN: So he doesn't have to consult
8 with anybody?

9 MR. LEDUC: Not to my knowledge.

10 MR. HORN: Okay. And is there any
11 difference in the amount when it goes higher or lower; is
12 there any cut-off point?

13 MR. LEDUC: Yes, there are rules pertaining
14 to certain values at which time a bishop must consult or
15 obtain advice or obtain permission.

16 MR. HORN: Okay. So the money that is there
17 belongs to the Diocese, but he's the one that has the full
18 power to deal with that money?

19 MR. LEDUC: Within some limitations.

20 MR. HORN: And what limitations would that
21 be? Would this situation that occurred, would that bring
22 that into play?

23 MR. LEDUC: Not to my knowledge.

24 MR. HORN: So he didn't have to consult with
25 anybody? He didn't have to consult with the parishioners

1 regarding their money -- basically, it's tithes and
2 offerings that they have given to the Church. Isn't that
3 what it is?

4 **MS. HENEIN:** Perhaps Mr. Horn can ask these
5 questions of the people of the church that would know those
6 answers.

7 **MR. SHERRIFF-SCOTT:** Well, I don't want to
8 unduly extend this exercise, but it's more than tithes and
9 offerings. There's a ---

10 **THE COMMISSIONER:** No, I know, there's
11 investment. There's all kinds of things.

12 **MR. HORN:** So you're not the right person to
13 ask that question I guess?

14 **MR. LEDUC:** If you want an accurate answer,
15 no.

16 **MR. HORN:** But do you know anything on that
17 area. The money that you were ---

18 **THE COMMISSIONER:** Okay.

19 **MR. HORN:** --- you were the ones
20 negotiating, but ---

21 **THE COMMISSIONER:** No, Mr. Horn. He was
22 negotiating. If you want to know about the internal
23 workings of the Diocese, you can ask the Diocese.

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

25 **THE COMMISSIONER:** Thank you. All right.

1 Mr. Lee?

2 So can we get some idea of timing so we can
3 -- how long do think you are going to be, Mr. Lee?

4 **MR. LEE:** Sixty (60) to 90 minutes, I would
5 think.

6 **THE COMMISSIONER:** Okay. Can I get some
7 idea from other counsel as well so I can see if we are
8 going to burn the midnight oil?

9 Mr. Cipriano?

10 **MR. CIPRIANO:** I won't be longer than about
11 15 minutes.

12 **THE COMMISSIONER:** Thank you.

13 Mr. Chisholm? Oh, I'm sorry. I'm sorry.

14 **MS. ALINOTTE:** I have no questions at this
15 point.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Neuberger. Is he gone? So in his
18 absence, I'll put zero.

19 (LAUGHTER/RIRES)

20 **THE COMMISSIONER:** Mr. Kloeze?

21 **MR. KLOEZE:** I'll have no more than 10
22 minutes.

23 **THE COMMISSIONER:** All right.

24 Mr. Sherriff-Scott?

25 **MR. MANDERVILLE:** I'm actually going ahead

1 of Mr. Sherriff-Scott, Mr. Commissioner.

2 **THE COMMISSIONER:** Okay.

3 **MR. MANDERVILLE:** I will be 10, 15 minutes
4 and perhaps 5 if Mr. Leduc agrees with me.

5 (LAUGHTER/RIRES)

6 **THE COMMISSIONER:** So you'll be half-an-
7 hour.

8 (LAUGHTER/RIRES)

9 **THE COMMISSIONER:** Mr. Sherriff-Scott?

10 **MR. SHERRIFF-SCOTT:** Perhaps an hour or
11 maybe closer to Mr. Lee's estimate.

12 **THE COMMISSIONER:** Okay.

13 Mr. Kozloff?

14 **MR. KOZLOFF:** Nothing.

15 **THE COMMISSIONER:** Mr. Wallace?

16 **MR. WALLACE:** Nothing.

17 **THE COMMISSIONER:** And that would do. Okay,
18 so we've got about three, four ---

19 **MS. HENEIN:** Sorry?

20 **THE COMMISSIONER:** I'm sorry, yes, yes.

21 **MS. HENEIN:** Probably about 60 minutes.

22 **THE COMMISSIONER:** Okay. So we've got close
23 to five hours. So the odds are of us completing today are
24 kind of meagre.

25 Mr. Lee?

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

2 MR. LEE: Mr. Leduc, my name is Dallas Lee.
3 I act for a party here with standing known as the Victims'
4 Group. I have a number of areas I would like to ask you
5 about. Let me start just by closing off where Mr. Horn
6 left.

7 I take it you were never part of a Diocesan
8 finance committee or anything like that?

9 MR. LEDUC: No.

10 MR. LEE: And would you think that Gordon
11 Bryan may be an appropriate person to ask about Diocesan
12 finances?

13 MR. LEDUC: Yes.

14 MR. LEE: And possibly the Bishop, I
15 presume?

16 MR. LEDUC: Yes.

17 MR. LEE: I want to start by asking you a
18 little bit about the Gilles Deslauriers matter. And I hope
19 you'll recall that we looked in-chief at a letter from
20 Father Deslauriers to Bishop Larocque wherein Father
21 Deslauriers refused to appear before the ad hoc committee.
22 You recall that?

23 MR. LEDUC: Yes.

24 MR. LEE: And I don't care about the gist --
25 the detail of the letter, just the gist that he refused to

1 appear, and that's your recollection?

2 MR. LEDUC: Yes.

3 MR. LEE: And he never did appear did he?

4 MR. LEDUC: No, he did not.

5 MR. LEE: And my understanding is that he
6 refused to attend or to be interviewed or participate in
7 that ad hoc process in any way. Is that correct?

8 MR. LEDUC: That's correct.

9 MR. LEE: Did you ever discuss with the
10 committee members or with Bishop Larocque whether there was
11 any way to compel Father Deslauriers to attend?

12 MR. LEDUC: No.

13 MR. LEE: Were you ever asked for legal
14 advice on that matter?

15 MR. LEDUC: No.

16 MR. LEE: Either as a civil lawyer or as a
17 canonist?

18 MR. LEDUC: No.

19 MR. LEE: Did you ever discuss the
20 possibility of instituting a process other than the ad hoc
21 committee where he would be forced to attend or participate
22 I suppose?

23 MR. LEDUC: That was not part of our
24 discussions that I recall.

25 MR. LEE: No discussion of some kind of

1 proceeding under canon law?

2 MR. LEDUC: There were discussions about
3 proceedings under canon law with Monsignor Guindon at one
4 point-in-time, but I don't recall the gist of those
5 discussions.

6 MR. LEE: And it didn't go anywhere anyways?

7 MR. LEDUC: No, not that I know of.

8 MR. LEE: Do you recall any discussion with
9 Bishop Larocque of canonical proceedings in the form of
10 trial or something along that?

11 MR. LEDUC: No.

12 MR. LEE: And I take it you did not offer
13 any advice on that?

14 MR. LEDUC: No.

15 MR. LEE: During your cross-examination
16 yesterday by Ms. Daley, you advised us that you were aware
17 that Gilles Deslauriers was a Chaplain at La Citadelle High
18 School. Is that correct?

19 MR. LEDUC: That's correct.

20 MR. LEE: And you acknowledged that that
21 position put him in contact with young persons that he
22 later went on to abuse?

23 MR. LEDUC: Yes.

24 MR. LEE: And you told us that you do not
25 remember giving advice to the Diocese about informing the

1 school board?

2 MR. LEDUC: No.

3 MR. LEE: And as opposed to canvassing with
4 the Diocese whether they might inform the school board, did
5 you ever yourself inform the school board?

6 MR. LEDUC: No.

7 MR. LEE: I believe you told us at the very
8 beginning of your evidence in-chief, when Ms. Jones was
9 going over some of your qualifications and your
10 experiences, that you were a member of the school board at
11 some point. Is that correct?

12 MR. LEDUC: I was a trustee of the Catholic
13 School Board for a while, yes.

14 MR. LEE: When did that begin, sir?

15 MR. LEDUC: I couldn't be accurate with you.

16 MR. LEE: Let me be more specific. Were you
17 affiliated with the school board or working with the school
18 board in any way in 1986?

19 MR. LEDUC: I don't recall. I'd have to --
20 I don't recall.

21 MR. LEE: You have no recollection of
22 whether at the time that you were participating with the ad
23 hoc committee, you were also a trustee of the school board?

24 MR. LEDUC: No, I'd have to check the
25 records of the school board to see when my term was, but I

1 don't recall at this moment if I was or not a trustee.

2 MR. LEE: Was that your only involvement
3 with the school board, as a trustee?

4 MR. LEDUC: Yes.

5 MR. LEE: For a number of years I take it?

6 MR. LEDUC: Yes. I think it was six or
7 seven years maybe.

8 MR. LEE: And you held various positions as
9 a trustee. Is that correct?

10 MR. LEDUC: Yes. Yes.

11 MR. LEE: And were you the president of the
12 Board or ---

13 MR. LEDUC: Chair.

14 MR. LEE: Chair of the Board at some point.

15 As I alluded to a little while ago when I
16 rose, one of my clients here is Benoit Brisson, and you
17 were asked several questions during your examination in-
18 chief about the interaction you had with Mr. Brisson during
19 the preliminary inquiry of Gilles Deslauriers. You recall
20 that?

21 MR. LEDUC: Yes.

22 MR. LEE: And I'm going to paraphrase what I
23 understand your evidence to be and please correct me if I'm
24 wrong.

25 You told us here that you approached Mr.

1 Brisson and told him that if there was a matter being put
2 to him in cross-examination that was the subject of a
3 confession, he was free to advise the court of that?

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

5 **MR. LEE:** Is that correct?

6 And you're aware, I take it, that Mr.
7 Brisson testified at this Inquiry?

8 **MR. LEDUC:** Yes.

9 **MR. LEE:** And as I alluded to a while ago,
10 his testimony on that point differs from your own and I
11 want to put what he said to you and get your comments.

12 So, Madam Clerk, if we can look at Volume 55
13 of the transcripts, please?

14 **THE COMMISSIONER:** Thank you. What page,
15 please?

16 **MR. LEE:** Beginning at page 62, I suppose,
17 please. And if you look halfway down the screen, sir, you
18 can see that we come back from our morning break and we
19 continue the examination in-chief being led by Maître
20 Dumais, one of the Commission counsel. Do you see that,
21 sir?

22 **MR. LEDUC:** Yes.

23 **MR. LEE:** And he begins by talking about the
24 transcript of the preliminary inquiry, and if you flip over
25 for yourself, sir, onto page 63, you'll see that Maître

1 Dumais reads out an excerpt from the transcript that was
2 put to you here. Do you see that, sir?

3 MR. LEDUC: Yes.

4 MR. LEE: And there's an exchange, and it
5 goes on all the way down until page 64 ---

6 MR. LEDUC: Yes.

7 MR. LEE: --- towards the bottom. And at
8 line 20 of page 64, if you can turn there, please?

9 MR. LEDUC: Yes.

10 MR. LEE: After he's gone through all of
11 that, Mr. Dumais asks Mr. Brisson whether or not he recalls
12 those questions being put to him. And I am not fluent in
13 French, sir, so if as I'm paraphrasing here you notice that
14 I've done a poor job of it, please let me know.

15 And beginning at line 22, Mr. Brisson has an
16 answer. And, sir, I'm going to impose upon you, as Ms.
17 Jones did. Would you mind reading Mr. Brisson's record
18 given your French is so much better than mine?

19 MR. LEDUC: "Ce qui a été dit entre toi
20 puis Gilles Deslauriers c'était en
21 confession. Donc, ce que ce qui est en
22 confession, t'as pas besoin de
23 témoigner dans..."

24 Do you want me to stop there?

25 MR. LEE: No, if you could continue on with

1 the answer?

2 **MR. LEDUC:** "...ces lignes-là, tu sais.

3 Donc, je pense qu'après qu'il m'ait dit
4 ça, je suis arrivé pour témoigner et
5 puis j'avais commencé à dire, bien, je
6 peux pas discuter de ça parce que
7 c'était ma confession. Puis là
8 l'avocat de la Couronne m'a dit, « Mais
9 il y a tu quelqu'un qui t'a parlé
10 pendant qu'on était en break? » Puis
11 j'ai dit oui, c'était Jacques Leduc qui
12 m'avait dit de ne pas dire rien parce
13 que c'était en confession avec Gilles
14 Deslauriers."

15 **MR. LEE:** So if you stop there, sir, you --
16 I take it you get why I'm putting this to you in terms of
17 if you look at the last lines 6, 7 and 8 from Mr. Brisson,
18 his evidence -- and I'll take you to the rest of his
19 evidence, including in cross-examination by your counsel --
20 but his evidence at this point anyways is different from
21 yours in that he claims you told him not to say anything
22 because it was in confession ---

23 **MR. LEDUC:** Correct.

24 **MR. LEE:** --- as opposed to your evidence
25 here which is he should advise the Court if there's

1 anything in confession and they could go from there. Is
2 that correct?

3 MR. LEDUC: Yes.

4 MR. LEE: And if you look now, sir, onto
5 page 67, and if you begin at line 13, we have the
6 Commissioner interjecting and seeking some clarification,
7 and Mr. Brisson -- I won't have you read it out loud, but
8 the gist of Mr. Brisson's evidence is that what you told
9 him at that preliminary inquiry was that any discussions
10 between Mr. Brisson and Father Deslauriers, whether in his
11 office or elsewhere, were protected by the confessional
12 seal. Do you see that -- I'm not asking you whether you
13 agree, but you see the answer there ---

14 MR. LEDUC: Yes.

15 MR. LEE: --- and you see that's the
16 evidence he gave here?

17 MR. LEDUC: Yes.

18 MR. LEE: So that's his evidence in-chief on
19 that point, okay?

20 And if we look over at page 99, I'll take
21 you to his cross-examination. Beginning at line 15 there's
22 a question from Ms. Makepeace who was a former member of
23 your legal team here, and she asks:

24 "Would you also agree with me then,
25 sir, now having heard the portions of

1 the transcript that were read to you by
2 Mr. Dumais, that Mr. Leduc had simply
3 reminded you of exactly what you had
4 already been told by the defence lawyer
5 the previous day and nothing more?
6 Would you agree with that?"

7 And again, if I could impose upon you to
8 read Mr. Brisson's answer into the record, please?

9 **MR. LEDUC:** "Il m'a dit exactement ce que
10 j'ai dit là que ce que -- bien, non,
11 pas exactement, non. Il m'a dit ce qui
12 a été dit entre Gilles Deslauriers et
13 moi. Ça a été en confession. C'est-à-
14 dire que même si c'était des réunions
15 un-à-un, c'était quand même en
16 confession. C'était considéré comme
17 une confession. Donc, tout ce qui a
18 été dit entre Gilles Deslauriers et moi
19 est considéré comme confession. Donc,
20 j'ai pas besoin de dire rien. [C'est]
21 ce qui a été dit par Jacques Leduc."

22 **LE COMMISSAIRE:** "C'est ce qui a été dit
23 par Jacques Leduc."

24 **MR. LEDUC:** "C'est ce qui a été dit par
25 Jacques Leduc."

1 **MR. LEE:** Thank you.

2 Now, you'll agree with me that his version
3 of events, as told in that witness box, differ from your
4 own?

5 **THE COMMISSIONER:** I'm sorry; what was the
6 question again, Mr. Lee?

7 **MR. LEE:** My question was whether or not Mr.
8 Leduc would agree with me that the re-telling of this
9 incident, as told by Mr. Brisson here, differs from what
10 Mr. Leduc has told us here.

11 **THE COMMISSIONER:** Right. Okay.

12 **MS. HEINEN:** If that is the position that my
13 friend is taking, then he should also put the portion where
14 Ms. Makepeace quotes what's put on the record and how it is
15 characterized.

16 **THE COMMISSIONER:** What page?

17 **MS. HEINEN:** And Mr. Brisson agrees, at page
18 98.

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

20 **MS. HEINEN:** And 99.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MR. LEE:** I don't think I put the question -
23 - you're finished reading that, Mr. Commissioner?

24 **THE COMMISSIONER:** Yes, I am.

25 **MR. LEE:** I don't think I put the question

1 unfairly to Mr. Leduc.

2 Ms. Makepeace, at page 99, line 6, after
3 having read out that portion of the transcript, the
4 transcripts of which are entered in the record, asked:

5 "Do you recall receiving that
6 information from Mr. Charlebois?"

7 And Mr. Brisson says no. And she asks:

8 "Well, you wouldn't dispute with me
9 that you did receive that instruction?"

10 And he says:

11 "Bien, si c'est là, oui."

12 Confirming, well, if it's in the transcript,
13 that must have been what I was told.

14 And so she asks him, the portion I read out,
15 whether or not he would agree that that's what happened.
16 And the answer I had Mr. Leduc read is "No, that is not
17 what happened. Here's what Mr. Leduc told me."

18 **MS. HEINEN:** But if my friend continues on,
19 he will see that all the transcript references are put --
20 if you continue on, Mr. Commissioner, to page -- all the
21 way to 103 where it is read to him precisely what is put on
22 the record in his presence, and Mr. Brisson does not
23 disagree that that was done and it was done in his
24 presence.

25 **THE COMMISSIONER:** Okay, 100 to 103? Just a

1 second.

2 **MS. HEINEN:** All the way to 103. That's the
3 full range of ---

4 **MR. LEE:** I'm not sure Ms. Heinen and I have
5 any kind of disagreement here. The transcripts are what
6 they are and Mr. Brisson acknowledged that's what's said in
7 the transcripts.

8 What he said here at the public inquiry is
9 that regardless of what is in the transcripts, "Here is
10 what I am telling you Mr. Leduc said."

11 **THE COMMISSIONER:** Just a minute.

12 **MR. LEE:** I'm not arguing with the
13 transcripts and what was said in court on that day. I'm
14 telling you that when Mr. Brisson came here, he said,
15 "There's more to the story than what is revealed in the
16 transcript."

17 **THE COMMISSIONER:** So will you let me read
18 to 103?

19 **MR. LEE:** Yes.

20 **THE COMMISSIONER:** Thank you.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **THE COMMISSIONER:** Okay, I've read the
23 material.

24 **MS. HENEIN:** The other reference that I was
25 going to give you is Monsieur Brisson's evidence at the

1 time under oath when he is asked "What was the conversation
2 you had a few moments ago with Mr. Leduc?"

3 And he says "He told me" -- I'm translating,
4 I'm going to give you the page reference. "He told me that
5 if there are questions about confession, I should say so."
6 And that is found in his evidence under oath.

7 So in my respectful sub ---

8 **THE COMMISSIONER:** Is that ---

9 **MS. HENEIN:** In Brisson's evidence under
10 oath at the time, within minutes of the conversation.

11 **THE COMMISSIONER:** Oh, okay. M'hm.

12 **MS. HENEIN:** So in my respectful submission,
13 my friend hasn't put the evidence fairly. First to Mr.
14 Brisson that he necessarily changed his version of events.
15 Because if you read the entirety of it, he seems to
16 acknowledge that, in fact, that was said and he was
17 present. And it is not a fair suggestion to Mr. Leduc
18 either when you look at the entirety of the evidence.

19 I don't know Mr. Commissioner if you want
20 that -- that cite as well. I've translated it. It is
21 Exhibit 71B -- 71C. That is the preliminary inquiry of
22 Gilles Deslauriers, Volume 2. And the Bates page ---

23 **THE COMMISSIONER:** Hold on. Hold on.

24 **MS. HENEIN:** Sorry.

25 **THE COMMISSIONER:** Seventy one (71)?

1 **MS. HENEIN:** I've got 71B written on this.

2 **THE COMMISSIONER:** There is nothing in 71
3 and we did that yesterday. And there was a reason for
4 that. The transcript is someplace else?

5 **MR. SHERRIFF-SCOTT:** Mr. Commissioner, if I
6 can help. The mark in the record is 71C, pub ban, added
7 for publication and that's how it was marked when it went
8 into the record.

9 **THE COMMISSIONER:** No, it's just -- yeah, we
10 saw it before.

11 Do you have it Madam Clerk?

12 Here we go. Okay.

13 Here we go. All right. What happened was,
14 it is 71 A, B, and C ---

15 **MR. SHERRIFF-SCOTT:** C, right.

16 **THE COMMISSIONER:** --- except it's not in
17 the exhibits' books, it's in, for some reason, in a
18 different binder.

19 **MR. SHERRIFF-SCOTT:** It's actually pages 1
20 and 2 of the actual transcript of September 17th, 1996. The
21 last Bates digits are 2059 and 2060.

22 **THE COMMISSIONER:** Okay. I'm there.

23 **MR. SHERRIFF-SCOTT:** And the passage my
24 friend just tried to translate is at the bottom of the
25 first page and the last questions at the top of page 2 are

1 basically "Did he say anything else?" and he says "C'est
2 tout."

3 **THE COMMISSIONER:** Okay.

4 Okay. So where do we go now, Mr. Lee?

5 What was your question again?

6 **MR. LEE:** Are we now satisfied that Mr.
7 Leduc has all of the information that he needs to be able
8 to -- I mean, sir, I didn't suggest that Mr. Brisson was
9 asked the exact same questions here as he was at the
10 prelim. I didn't suggest that Mr. Brisson's evidence was
11 identical in the two forms.

12 I mean the evidence was led in-chief. Ms.
13 Makepeace was here on behalf of Mr. Leduc and cross-
14 examined him at length on it. I pointed out to Mr. Leduc
15 the fact that we have an answer here.

16 I mean Ms. Makepeace, on page 99,
17 specifically says "Wouldn't you agree that what happens
18 what's said here in the transcript?" And he says "No."
19 And he goes on.

20 My question was for Mr. Leduc, having read
21 Mr. Brisson's answers in-chief and then again on page 99
22 over on to page 100, would you agree with me that his
23 evidence on this point differs from your own?

24 **MR. LEDUC:** Yes.

25 **MR. LEE:** And in ---

1 **MR. LEDUC:** Yes, what it says here.

2 **MR. LEE:** My question is having read Mr.
3 Brisson's evidence from the Inquiry; would you agree that
4 that is an accurate re-telling of the events that occurred
5 on the day of the preliminary inquiry?

6 **MR. LEDUC:** No, because I believe what I've
7 just read is that he says "Ça fait 20 ans franchement."

8 **MR. LEE:** My question for you is Mr. Brisson
9 has come, he has told us his story. He says, as he was
10 sitting there under oath, "This is what happened on that
11 date." Do you agree or do you disagree with Mr. Brisson
12 that that is what happened on the date of the prelim?

13 **MR. LEDUC:** I disagree.

14 **MR. LEE:** Your evidence then is that you did
15 not tell Mr. Brisson that any conversation that he had with
16 Gilles Deslauriers at any time was subject to the seal of
17 the confession and that he need not divulge it to the
18 Court.

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

20 **MR. LEE:** And I take it your evidence is
21 that the Commissioner should prefer your evidence over Mr.
22 Brisson's?

23 **MS. HENEIN:** That is not a fair question to
24 put. The Commissioner has before him also all the evidence
25 in the preliminary inquiry transcripts and the comments

1 made by Monsieur Brisson, number one.

2 Number two, it is a completely inappropriate
3 question to ask a witness whose evidence the judge or
4 Commissioner should be preferring; theirs or somebody
5 else's. It's just not an appropriate question to ask.

6 **MR. LEE:** I disagree.

7 **THE COMMISSIONER:** Okay. It's cross-
8 examination, I'll permit you to ask the question.

9 **MR. LEE:** Sir?

10 **MR. LEDUC:** Would you repeat it please?

11 **MR. LEE:** I take it your evidence is then on
12 this point that the Commissioner should prefer your
13 evidence over that of Mr. Brisson's?

14 **MR. LEDUC:** That is my recollection.

15 **MR. LEE:** I take it following from what
16 you've just told us, your purpose in approaching Mr.
17 Brisson at the preliminary inquiry was not to dissuade him
18 from giving full and complete evidence?

19 **MR. LEDUC:** Absolutely not.

20 **MR. LEE:** Moving on from the Deslauriers
21 matter to the David Silmser/Charles MacDonald matter,
22 you've been asked several questions about the committee
23 that met with Mr. Silmser in relation to the Charles
24 MacDonald allegations. And you've also been asked a number
25 of questions about the feelings of the committee about Mr.

1 Silmser's credibility. You recall that, I take it?

2 MR. LEDUC: Yes.

3 MR. LEE: And one of the things we know is
4 that there were at least some issues relating to
5 credibility as a result of his refusal to divulge all of
6 the details of the assault and the fourth assault in
7 particular. Is that correct?

8 MR. LEDUC: I'm not sure that that goes to
9 credibility. It goes to the absence of fact.

10 MR. LEE: Well, I -- my understanding of the
11 documents we have in the record is that Father
12 Vaillancourt, as an example, thought that, as is stated in
13 his retelling, and we having him as a witness here, that
14 the fact that David Silmser cannot provide full details of
15 the assaults suggested -- or impacted his credibility. Was
16 that not your impression of Father Vaillancourt's feelings
17 at the time?

18 MR. LEDUC: I don't recall what view I'd
19 made of Father Vaillancourt's input or comments at that
20 time.

21 MR. LEE: What about you, sir? In terms of
22 the impact that -- Mr. Silmser refusing to provide full
23 details had on his credibility in your mind; was there any
24 at all?

25 MR. LEDUC: As I said before, his reluctance

1 to give any type of detail was, in my view, one of the
2 considerations that led me, together with other members of
3 the committee, to conclude that, as I said before, he was
4 either telling the truth or a very good actor.

5 **MR. LEE:** Can we turn up the transcript from
6 your second day of evidence please, Volume 254?

7 **THE COMMISSIONER:** What page please?

8 **MR. LEE:** Fifty-three (53) please.

9 And I'm looking specifically at the tail end
10 of the question from Ms. Jones that begins at line 4 where
11 she asks:

12 "I'm wondering if you could advise
13 where you got the notion as you stated
14 in your statement that you needed
15 details of the sexual assaults in order
16 to talk about Father Charlie
17 MacDonald?"

18 Or "order to talk" rather "about Father
19 Charlie MacDonald." Do you see that sir?

20 **MR. LEDUC:** Yes.

21 **MR. LEE:** And your answer is:

22 "We thought it was important to get
23 more specific information in relation
24 to the nature of the assaults both.
25 And I don't want to say that there's

1 any such thing as a minor assault. But
2 we thought -- the community thought..."

3 I believe that should be "the committee
4 thought."

5 "...the committee thought it was
6 important to get more details to
7 provide a better report to the Bishop
8 and obviously to confront Father
9 Charles with that information because
10 my recollection is the protocol
11 requires that the person who is the
12 subject of the allegation be confronted
13 with the allegation itself, and to do
14 that in a proper way, I think we needed
15 some detail."

16 Do you see that, sir?

17 **MR. LEDUC:** Yes, sir.

18 **MR. LEE:** Do you take any issue with that
19 answer?

20 **MR. LEDUC:** No.

21 **MR. LEE:** I want to -- so as I understand
22 it, there are two things there. You need details, one,
23 because the more detail is better to provide a better
24 report to the Bishop?

25 **MR. LEDUC:** Yes.

1 **MR. LEE:** And the second one is you needed
2 details of the allegations to confront the accused person,
3 Father MacDonald?

4 **MR. LEDUC:** Yes.

5 **MR. LEE:** Now, I want to look, please, at
6 the details that Mr. Silmser did provide you and we can
7 find those at Exhibit 1888, which is your statement, I
8 suppose, to Peter Annis.

9 **MR. LEDUC:** Yes.

10 **MR. LEE:** And if you can look, please, at
11 the second page and you can see the second bullet relates
12 to the first incident and then goes on to second, third and
13 fourth incident in the bullets that follow. Do you see
14 that?

15 **MR. LEDUC:** Yes.

16 **MR. LEE:** Can you just read those four
17 incidents to yourself, please, just to refresh your memory
18 on what they were?

19 **MR. LEDUC:** Yes, I just did.

20 **MR. LEE:** Now, you would agree with me that
21 these are very serious allegations?

22 **MR. LEDUC:** Yes.

23 **MR. LEE:** The first allegation involves a
24 complaint of sexual touching?

25 **MR. LEDUC:** Yes.

1 **MR. LEE:** And the second involves, I think
2 you would agree, a rather shocking comment for a priest to
3 have allegedly made to a child?

4 **MR. LEDUC:** Shocking comment for anyone to
5 make.

6 **MR. LEE:** And number three, again, involves
7 sexual touching, this time while on a retreat?

8 **MR. LEDUC:** Yes.

9 **MR. LEE:** And number four involves a sexual
10 assault?

11 **MR. LEDUC:** Yes.

12 **MR. LEE:** Would you agree with me, sir, that
13 there is more than enough information listed in these
14 paragraphs to permit Father MacDonald to either confirm or
15 deny the allegations?

16 **MR. LEDUC:** It was not an issue of having
17 him confirm or deny. It was a matter of providing with
18 sufficient detail so that he could formulate a response.

19 **MR. LEE:** A response beyond, "I didn't do
20 it"?

21 **MR. LEDUC:** Possibly. I don't know what his
22 response would have been.

23 **MR. LEE:** Would you agree with me that these
24 are not the types of allegations that a parish priest
25 should have to -- or should need some clarification on

1 before confirming their truthfulness?

2 MR. LEDUC: In what context, sir?

3 MR. LEE: What I'm asking you is whether or
4 not you would expect a priest who is confronted with the
5 allegations as set out in this page to need further details
6 before being able to confirm whether or not they were true?

7 MR. LEDUC: Well, I don't know what detail
8 he would like except that I thought that it would be
9 appropriate to provide time, place -- at least time period,
10 place.

11 MR. LEE: So it was your thinking at the
12 time that Father MacDonald would need to know the time and
13 the place where he allegedly sexually assaulted David
14 Silmser in order to confirm or deny it?

15 MR. LEDUC: Well, in order to say well, for
16 example, it couldn't happen because I wasn't at this parish
17 or I wasn't there. I mean, I think in all fairness the
18 reason we did ask for more specific details was, as I've
19 said before, to provide a fuller report to the Bishop and
20 also to provide a fuller explanation of the allegations
21 made to Father Charles.

22 MR. LEE: I'm going to suggest to you that
23 you had more than enough detail from Mr. Silmser to permit
24 you to approach Father Charles MacDonald for him to be able
25 to confirm or deny whether or not these things had happened

1 and for you to report that response to the Bishop.

2 Would you agree with me on that?

3 **MR. LEDUC:** That's your view, sir.

4 **MR. LEE:** Would you agree with my views?

5 **MR. LEDUC:** No.

6 **MR. LEE:** Is it possible that your intent in
7 probing for details was to attempt to pin Mr. Silmsler down
8 on a version of events at this early stage?

9 **MR. LEDUC:** Not to pin him down, no, but to
10 get more accurate statements?

11 **MR. LEE:** For what purpose?

12 **MR. LEDUC:** Exactly as I've said, there were
13 two purposes.

14 **MR. LEE:** If I can turn you, sir, to a
15 document -- well, you've been shown the document, you
16 haven't been shown these pages of it. You'll recall
17 yesterday that we looked at a number of different excerpts
18 from a CAS worker named Greg Bell's case notes. I'd like
19 to put those to you.

20 Madam Clerk, I have copies for you here.

21 Mr. Commissioner, this is Document Number
22 721672 and I'm interested in two Bates pages, 7082104 and
23 05.

24 **THE COMMISSIONER:** Exhibit 1920 is case
25 documentation service -- system service record of Mr. Bell

1 and the first date on that document is the 22nd of
2 September, 1994.

3 --- EXHIBIT NO./PIÈCE NO. P-1920:

4 (721672) Notes of Greg Bell - September 22,
5 1994 to October 4, 1994

6 MR. LEE: Do you have that, sir?

7 MR. LEDUC: Yes.

8 MR. LEE: If you can look down, just to
9 situate ourselves, at the last time entry on the first
10 page, we have the -- we have October the 4th, 1994 at what
11 looks like 10:27, "Call from Malcolm MacDonald". Do you
12 see that?

13 MR. LEDUC: Yes.

14 MR. LEE: And if you turn over the page,
15 please, you'll see that under "Time" we have "Continued"
16 and Mr. Bell finishes a notation and then he has a number 2
17 it looks like where he begins something anew. Do you see
18 that?

19 MR. LEDUC: Yes.

20 MR. LEE: And it's not the clearest
21 handwriting but I'd like to read that to you and see how I
22 can do here.

23 And as I said, it reads, "Malcolm MacDonald"
24 and then it looks like on the previous page he advise her
25 or he told her, something along those lines.

1 And number 2:
2 "Jacques Leduc headed the Diocesan
3 committee that investigated David
4 Silmser's allegation against Father
5 Charles MacDonald internally. This
6 committee consisted of a number of
7 people, including Monsignor McDougald,
8 Monsignor Guindon and two board
9 members. Father C. MacDonald was
10 questioned by this committee and became
11 'very hard-headed' over certain
12 specific questions such as 'Did you
13 touch D. Silmser?' He indicated,
14 'something about taking him for a drive
15 and getting out the car and D. Silmser
16 following him'."

17 A couple of words I can't read, perhaps:
18 "...certain ones he refused to answer.
19 Committee couldn't conclude anything
20 because he wouldn't answer certain..."

21 And it looks like "que" as in questions.
22 Do you -- I understand they're not your
23 notes. Does that look like a reasonable effort on my part
24 to read what's written there?

25 **MR. LEDUC:** I think so.

1 **MR. LEE:** And can you help me out with what
2 Mr. MacDonald apparently said to Mr. Bell here? Do you
3 have any information that would assist me with this?

4 **MR. LEDUC:** If these notes indicate that Mr.
5 MacDonald was referring to a committee meeting, what he's
6 saying did not happen. I mean, there was no committee
7 meeting where -- I think he says Monsignor Guindon and two
8 board members. I know nothing of this. This is not in --
9 this is not something I know about.

10 **MR. LEE:** Did you ever meet with Father
11 Charles MacDonald to ask him ---

12 **MR. LEDUC:** Never.

13 **MR. LEE:** --- and interview or question him
14 about the David Silmsler matter?

15 **MR. LEDUC:** Never.

16 **MR. LEE:** Are you aware of someone else from
17 the Diocese having interviewed Father Charles MacDonald in
18 relation to the David Silmsler matter?

19 **MR. LEDUC:** I don't know that, other than
20 the Bishop and Monsignor McDougald having, I gather, some
21 conversations with him.

22 **MR. LEE:** Were you advised by anybody of the
23 Diocese of a meeting with Father Charles MacDonald where he
24 refused to answer certain questions?

25 **MR. LEDUC:** No.

1 **MR. LEE:** Did you ever receive information
2 similar to this from Malcolm MacDonald at any point?

3 **MR. LEDUC:** No.

4 **MR. LEE:** And I take it, it flows from your
5 answers, that you did not tell Malcolm -- you did not
6 provide information of this nature to Malcolm MacDonald?

7 **MR. LEDUC:** No.

8 **MR. LEE:** Is it possible that you provided
9 such information to Mr. MacDonald?

10 **MR. LEDUC:** No.

11 **MR. LEE:** The reason I ask that question is
12 you've told us a number of times that you have no
13 independent recollection of the events surrounding the
14 Charles MacDonald affair.

15 **MR. LEDUC:** Well, I think I would remember a
16 meeting where Father Charles MacDonald was being
17 interviewed.

18 **MR. LEE:** And you have no such memory?

19 **MR. LEDUC:** It never happened.

20 **MR. LEE:** If you look on that same page, we
21 skip over number 3 on to number 4. I think it reads that:

22 "Before Father Charles MacDonald, there
23 was a priest who was a suspected
24 pedophile who was moved after one to
25 one-and-a-half years and is now dead."

1 Do you recall ever having had a conversation
2 with Malcolm MacDonald of that nature?

3 **MR. LEDUC:** No.

4 **MR. LEE:** Were you advised by anybody of the
5 Diocese that -- well, I suppose -- were you advised by --
6 I'm not sure if this all flows from that same meeting or
7 not. Were you advised by anybody of the Diocese that
8 Father Charles MacDonald commented on this in some meeting
9 with Diocese personnel?

10 **MR. LEDUC:** On what?

11 **MR. LEE:** On the fact that there was a
12 priest who was a suspected pedophile who was moved after
13 one to one-and-a-half years and is now dead?

14 **MR. LEDUC:** No, I have no knowledge of that.

15 **MR. LEE:** You've told us that the priests of
16 the Diocese who were accused of sexual misconduct you had
17 dealings with were Deslauriers and Charles MacDonald, and
18 this could not be Deslauriers because he's still living
19 today. Is that correct?

20 **MR. LEDUC:** I would think so.

21 **MR. LEE:** If I can have one moment, Mr.
22 Commissioner?

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

24 **MR. LEE:** You can put that document away,
25 sir.

1 (SHORT PAUSE/COURTE PAUSE)

2 MR. LEE: Mr. Commissioner, we have -- there
3 are a couple of documents that I intend to put to Mr.
4 Leduc. They relate to a woman who provided a statement to
5 the police, to the OPP officers Dupuis and Genier in April
6 of 2000. I don't know this woman. I've never represented
7 her. I've never met her.

8 The allegations or the gist of the interview
9 at one portion identifies her as an alleged victim of
10 abuse.

11 THE COMMISSIONER: M'hm.

12 MR. LEE: The only knowledge I have, based
13 on the document, is that she's an alleged victim of abuse.
14 I now understand from other sources that she's deceased.

15 THE COMMISSIONER: M'hm.

16 MR. LEE: I have no knowledge of whether a
17 criminal prosecution arose from any of the allegations she
18 makes. I have no knowledge that she was ever named
19 publicly or was the subject of a media report or is known
20 in Cornwall or elsewhere as an alleged victim of abuse, and
21 I have no knowledge of whether she ever commenced a civil
22 action.

23 So I don't know what you intend to do or
24 would like to do about ---

25 THE COMMISSIONER: What I intend to do?

1 Well, I'm open to suggestions.

2 **MR. LEE:** As I said, I mean, I -- Madam
3 Clerk wants the documents.

4 The ---

5 **THE COMMISSIONER:** So what are you -- you're
6 talking about confidentiality measures?

7 **MR. LEE:** I am. I mean, I obviously -- as I
8 said, I don't act for this woman. I've never met her.
9 She's certainly an alleged victim of abused based on the
10 documents. My knowledge of her I've set out to you. It's
11 my submission that that probably -- well, it's my
12 submission that that does satisfy the balancing of
13 interests you need to weigh under the Dagenais/Mentuck test
14 in the sense that there is a -- I don't believe there is
15 any great harm to come from not identifying this woman, but
16 I can really say no more than that.

17 **THE COMMISSIONER:** All right.
18 On the issue of confidentiality?

19 **MS. HEINEN:** I'm sorry?

20 **THE COMMISSIONER:** We're talking now about
21 whether or not this person's name should be protected
22 somehow.

23 **MS. HEINEN:** Do you have it before you, Mr.
24 Commissioner?

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

1 **MS. HEINEN:** You have the document? There
2 are obviously concerns about confidentiality, concerns
3 potentially about privilege.

4 **THE COMMISSIONER:** Privilege?

5 **MS. HEINEN:** I don't know if there's any --
6 -

7 **THE COMMISSIONER:** Privilege?

8 **MS. HEINEN:** You may need to read the
9 document.

10 **THE COMMISSIONER:** I might need to read the
11 document?

12 **MS. HEINEN:** Yes, just up to ---

13 **THE COMMISSIONER:** Well, there's only three
14 pages.

15 **MS. HEINEN:** Well, I'll give you a few
16 moments. If you just flip through it ---

17 **THE COMMISSIONER:** The line-up begins.
18 Mr. Manderville.

19 **MR. MANDERVILLE:** I'm going to confer
20 briefly with Mr. ---

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

22 **MR. MANDERVILLE:** I merely want to confer
23 briefly with Mr. Lee, Mr. Commissioner.

24 **THE COMMISSIONER:** Great.

25 And then we have ---

1 **MR. CIPRIANO:** I just want to see the
2 document.

3 **THE COMMISSIONER:** You just want to see the
4 document? Okay.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **THE COMMISSIONER:** Okay. So anybody wish to
7 speak on the issue of confidentiality? No?

8 So you want a non-publication?

9 **MR. LEE:** I would and I think for
10 convenience sake a moniker would probably be appropriate.

11 **THE COMMISSIONER:** It's getting ---

12 **MR. LEE:** I don't think we need to go any
13 further than that.

14 **THE COMMISSIONER:** No, no.

15 **MR. LEE:** A publication ban relating to name
16 and identifiers so that I can engage with Mr. Leduc here in
17 some kind of, you know ---

18 **THE COMMISSIONER:** So there will be a
19 publication ban on the name of the person and we'll have to
20 go -- well, whose name is on Exhibit -- is this an exhibit
21 yet, Madam Clerk?

22 **THE REGISTRAR:** No. So 1921.

23 **THE COMMISSIONER:** So 1921 is an exhibit and
24 it's an interview report of a person whose name we will
25 identify -- oh, what's the next moniker, I guess?

1 **---** EXHIBIT NO./PIÈCE NO. P-1921:

2 (712165) Interview Report - C-69 w/OPP J.B.
3 Dupuis and D.C. Genier - 18 April 2000

4 **MS. HEINEN:** Mr. Commissioner, can I just
5 raise one issue with you before it gets admitted as an
6 exhibit? I understood that my friend was going to put some
7 questions based on the information contained therein, but
8 this is unsigned, unsworn, and so I have some concerns
9 about this being admitted as an exhibit. I just want to
10 make the objection on the record.

11 **THE COMMISSIONER:** That's fine. This is an
12 inquiry and we've been letting in ---

13 **MS. HEINEN:** I understand.

14 **THE COMMISSIONER:** --- all kinds of
15 documents, and they're not necessarily for the truth.
16 They're just documents that are there and we're looking at
17 the institutional response.

18 **MS. HEINEN:** I understand.

19 **THE COMMISSIONER:** Okay. Thank you. No,
20 that's fine.

21 Mr. Manderville.

22 **MR. MANDERVILLE:** Simply for information
23 purposes, Mr. Commissioner, because you're being asked to
24 make a confidentiality ruling, the individual has passed
25 away.

1 **THE COMMISSIONER:** Yes.

2 **MR. MANDERVILLE:** So obviously she has no
3 concerns about confidentiality.

4 I understand she does have at least one
5 adult child, perhaps more, living in the area. Something
6 for you to consider.

7 **THE COMMISSIONER:** Right, so even more to
8 consider. So there will be a moniker at this point.
9 Moniker number?

10 **THE REGISTRAR:** Sixty-nine (69).

11 **THE COMMISSIONER:** Sixty-nine (69), 6-9.
12 And we'll put that on the list of names that we have to
13 deal with and confirming on the record next time we go into
14 in camera. The website is off -- the webcast? Good. So
15 while the webcast -- no, we still have to do in camera.

16 **MR. LEE:** Good try. The transcript, sir, is
17 the problem.

18 **THE COMMISSIONER:** The transcript will go on
19 the website, so no, we can't do it without -- but you've
20 got the moniker, so you're free to go.

21 **MR. LEE:** Are we going to proceed without
22 the webcast?

23 **THE COMMISSIONER:** Well, we should take a
24 break. Okay. Let's take a short break and find out what's
25 going on, and if not -- if it can't be resolved in 10

1 minutes, let us come back and away we go. All right?

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

4 This hearing will resume at 4:15.

5 --- Upon recessing at 4:04 p.m./

6 L'audience est suspendue à 16h04

7 --- Upon resuming at 4:22 p.m./

8 L'audience est reprise à 16h22

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

11 This hearing is now resumed. Please be
12 seated. Veuillez vous asseoir.

13 **THE COMMISSIONER:** Thank you.

14 Mr. Lee, so where are we now?

15 **MR. LEE:** That is an excellent, excellent
16 question, sir.

17 Just before the break, we entered Exhibit
18 1921 which is an interview report from the OPP relating to
19 a woman who has now been given the moniker C-69, and you
20 issued a publication ban on name and identity relating to
21 that document.

22 While we're thinking of it, I intend to
23 enter another exhibit, and I think we may as well do it
24 now.

25 Madam Clerk, you have copies of that as

1 well. It's Document 727734, and it is a three-page excerpt
2 beginning with Bates page 7107866, 867 and 868.

3 **THE COMMISSIONER:** Your documents. So this
4 is?

5 **MR. LEE:** My understanding is these are the
6 notes of Officer Genier.

7 **THE COMMISSIONER:** All right, so Exhibit 1922
8 are Notes from Officer Genier and on the top, the date is
9 Tuesday, 18th of April 2000. Okay.

10 **--- EXHIBIT NO./PIÈCE No P-1922:**

11 (727734) 7107864-68 Notes of D.C. Genier -
12 18 Apr 00 to 19 Apr 00

13 **MR. LEE:** Okay. Thank you.

14 **JACQUES LEDUC, Resumed/Sous le même serment:**

15 **--- CROSS-EXAMINATION BY/INTERROGATOIRE CONTRE-**
16 **INTERROGATOIRE PAR MR. LEE (cont'd/suite):**

17 **MR. LEE :** Mr. Leduc, do you have those two
18 things?

19 **MR. LEDUC:** Yes, I do.

20 **MR. LEE:** And you've heard the Commissioner
21 order that this woman will be referred to as C-69?

22 **MR. LEDUC:** Yes.

23 **MR. LEE:** It is not always easy to remember
24 that, but please do your best, sir.

25 Do you know this woman, sir, or did you know

1 this woman?

2 **MR. LEDUC:** Yes.

3 **MR. LEE:** And do you recall when you would
4 have first met her, sir?

5 **MR. LEDUC:** I have a problem because this
6 lady was a client of mine.

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

8 **MR. LEE:** I'm sorry, did you say you have a
9 problem because she was a client of yours?

10 **MR. LEDUC:** Well, there's a matter of
11 privilege.

12 **MR. LEE:** I don't think we've got to
13 anything relating to privilege at this point.

14 **MR. LEDUC:** Oh, I'm just ---

15 **MR. LEE:** Okay.

16 **MR. LEDUC:** --- advising you that she was a
17 client of mine.

18 **MR. LEE:** Your -- Ms. Henein has advised me
19 as well that there may be an issue there and, certainly,
20 you let me know if you feel like we are touching on
21 anything relating to privileges.

22 **MR. LEDUC:** Thank you.

23 **MR. LEE:** And she will as well obviously.

24 My question was, you confirmed that you do
25 know this woman, and my question was do you recall when you

1 first met her?

2 MR. LEDUC: Grade school.

3 MR. LEE: You attended Grade school with
4 her?

5 MR. LEDUC: Yes.

6 MR. LEE: And high school?

7 MR. LEDUC: Grade 13.

8 MR. LEE: And did you stay in touch as
9 adults?

10 MR. LEDUC: Occasionally.

11 MR. LEE: Did you consider her to be a
12 friend?

13 MR. LEDUC: Not really.

14 MR. LEE: In high school, would she have
15 been a friend, would you have considered her a friend?

16 MR. LEDUC: Yes, but no social relationship.

17 MR. LEE: As adults you mean?

18 MR. LEDUC: Yes.

19 MR. LEE: And if you turn to Exhibit 1921,
20 it's comprised of a typewritten version and then a
21 handwritten version in the back of a statement -- of an
22 interview report rather. The typewritten version is
23 obviously much easier to read.

24 You'll see on the first page that the date
25 of interview was April the 18th, 2000. It lasts for

1 approximately 48 minutes at the OPP Long Sault Detachment
2 and present are Officers Dupuis and Genier of the OPP. Do
3 you see that, sir?

4 MR. LEDUC: Yes.

5 MR. LEE: And if you turn over the second
6 page, and you look about a third, maybe a quarter of the
7 way down, you'll see that it reads, if you look at the --
8 do you see a bullet that begins with "This woman's name..."
9 and continues "...advised when in Montreal"?

10 MR. LEDUC: Yes.

11 MR. LEE: And what it reads is:

12 "C-69 advised when in Montreal, she was
13 also assaulted by a priest but that he
14 been looked after. She went on to say
15 that she was paid \$5,000 for treatment
16 and that her good friend, Jacques
17 Leduc, had helped her get that. She
18 has been a friend of Leduc's for years.
19 They started school together and after
20 Grade School went to Grade 13 together
21 at St. Lawrence High School. Leduc had
22 advised her that she could not proceed
23 criminally due to time limit of two
24 years in the Province of Quebec. Leduc
25 was acting as counsel for the

1 Alexandria-Cornwall Diocese at the
2 time. C-69 paid by a Diocese from
3 Quebec had to sign documents that she
4 would never talk about abuse from
5 Sherbrooke priest ever again."

6 And I'll continue with it, when we'll get
7 back to it.

8 You won't be concerned, just the next two
9 bullets.

10 "Bishop Larocque also discussed with
11 her that if she ever talked about abuse
12 he would see to it that she was fired
13 from her teaching position with the
14 Catholic Separate School Board. C-69
15 disclosed to Jacques Leduc everything
16 that had happened to her because he was
17 such a good friend."

18 And I'll stop there.

19 **MS. HENEIN:** I think my friend has to now be
20 careful to identify the issue, first of all, of privilege,
21 of whether he had acted for Alexandria-Cornwall in respect
22 of this incident or for her. And then there is going to be
23 an issue of privilege, which the Commissioner will have to
24 rule on so that he can answer the questions. Okay.

25 **MR. LEE:** I think the first question, if we

1 look at the bullet, "Leduc was acting as counsel for the
2 Alexandria-Cornwall Diocese at the time," and we then have
3 reference in the other bullets I've read to the priest
4 being from Sherbrooke.

5 So I suppose the first question is, is her
6 comment presumably that "Leduc was acting as counsel for
7 the Alexandria-Cornwall Diocese at the time," is that a
8 comment that generally you were working for the Alexandria-
9 Cornwall Diocese or might that be specific to this case?
10 Can you tell me that?

11 **MR. LEDUC:** Not specific to this case.

12 **MR. LEE:** Whatever involvement you had with
13 this woman had nothing to do with the Diocese of
14 Alexandria-Cornwall?

15 **MR. LEDUC:** You're right.

16 **MR. LEE:** So we'll take this or it at least
17 appears that this may have been a comment that, in your
18 regular life, you were counsel of the Alexandria-Cornwall
19 Diocese; full stop.

20 **MR. LEDUC:** Yes.

21 **MR. LEE:** Okay. Now, if I can also --
22 before I ask you a few questions about this, if you can
23 look at the officers' interview notes or the officers'
24 notes from that day, and that's now Exhibit 1922.

25 And if you look on the -- there is -- sorry,

1 Bates page 866, please, Madam Clerk. That's the one, and
2 halfway down the page you see a name written in the left-
3 hand margin and across from the "O" in that name, you have:

4 "C-69 advised that she received \$5,000
5 for therapy after being abused by a
6 priest in Quebec. An arrangement was
7 drawn up by Jacques Leduc who is her
8 lawyer and close friend since
9 kindergarten to have her sign an
10 agreement not to pursue matter
11 criminally and, as a result, received
12 \$5,000 for therapy. Leduc allegedly
13 advised C-69 that there was a two-year
14 statute of limitations to report sexual
15 abuse in Quebec, and this influenced C-
16 69 to settle. C-69 also advised that
17 in early '90s, she advised Bishop
18 Larocque of the major abuse and, at
19 that time, Larocque threatened C-69 by
20 saying if she disclosed major abuse,
21 she would be terminated as a Catholic
22 Board teacher. C-69 states that she is
23 very influenced by Larocque."

24 Do you see that sir?

25 **MR. LEDUC:** Yes.

1 **MR. LEE:** Now, my next question, and you may
2 want to pause before answering, my next question is whether
3 you assisted this woman in obtaining a settlement from a
4 Quebec-based Diocese.

5 **MS. HENEIN:** This is a question of
6 solicitor-client privilege. There are allegations being
7 made against Mr. Leduc that have been put to him that, in
8 fairness, in my submission, he should be able to respond
9 to, but there is a privilege and in order for him to
10 answer, there's got to be a ruling from you that by these
11 comments made by ---

12 **THE COMMISSIONER:** Yes.

13 **MS. HENEIN:** --- this individual, that that
14 in fact has occurred and that he can respond to these ---

15 **THE COMMISSIONER:** Or that she's waived her
16 privilege by ---

17 **MS. HENEIN:** She's waived her privilege and
18 she's made these allegations.

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

20 **MS. HENEIN:** So I just want that on the
21 record and have that direction from you.

22 **THE COMMISSIONER:** All right. And Mr. ---

23 **MR. KOZLOFF:** May I have a moment to speak
24 (off mic)?

25 **THE COMMISSIONER:** Sure.

1 (SHORT PAUSE/COURTE PAUSE)

2 THE COMMISSIONER: Mr. Neuberger, while you
3 were away, we decided you would have no questions.

4 MR. NEUBERGER: Thank you, sir.

5 THE COMMISSIONER: Thank you.

6 (LAUGHTER/RIRES)

7 MS. HENEIN: I just want to be very clear in
8 terms of the ruling and also very clear just in terms of
9 the concerns.

10 There are two components; one is the concern
11 about privilege, and you've ruled that she's -- or may rule
12 that she has waived it and, accordingly, Mr. Leduc can
13 answer the questions.

14 The second component, and I just want to
15 alert the Commission to it; is that in the course of
16 answering those questions, he may be put in a position of
17 making comments about this individual that are not
18 favourable to his former client.

19 So there are rules of professional conduct
20 that preclude you from doing so. I want to alert the
21 Commission to that and obviously ---

22 THE COMMISSIONER: That prevent -- it
23 doesn't prevent me from doing so. It prevents your client
24 to do so.

25 MS. HENEIN: Right, unless ---

1 **THE COMMISSIONER:** Unless ---

2 **MS. HENEIN:** --- you authorize him to answer
3 the questions.

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

5 **MS. HENEIN:** And so I anticipate that may
6 arise as well and I'll be seeking your permission that Mr.
7 Leduc be entitled to answer the questions.

8 **THE COMMISSIONER:** We'll cross that bridge
9 when we get to it.

10 So Mr. Lee, you're arguing waiver?

11 **MR. LEE:** I am arguing waiver and my ---

12 **THE COMMISSIONER:** Does anybody else want
13 comment on that? Mr. Kozloff has through Ms. Henein.

14 So I'll -- I think in fairness, first of
15 all, there is a necessity in the sense that the person is
16 deceased. This person has given a statement to the police,
17 which I take is not in contention that she did give this
18 statement to the police. And so it is clear to me that in
19 that statement, she clearly discussed solicitor/client
20 items which, as we know, can be in effect a waiver, which I
21 find it is in this case.

22 So Mr. Lee, you may ask the question.

23 **MR. LEE:** My question then Mr. Leduc was
24 whether or not your assisted this woman in obtaining a
25 settlement from a Quebec-based diocese?

1 MR. LEDUC: Yes.

2 MR. LEE: In relation to her complaint of
3 sexual abuse ---

4 MR. LEDUC: Yes.

5 MR. LEE: --- against a priest, I take it?

6 MR. LEDUC: Yes.

7 MR. LEE: Was the amount of that settlement
8 \$5,000 as she states?

9 MR. LEDUC: I believe so.

10 MR. LEE: And can you help me out with when
11 this would have occurred?

12 MR. LEDUC: March of '92.

13 MR. LEE: March of 1992.

14 And one of the portions that I read you a
15 moment ago:

16 "Leduc allegedly advised C-69 that
17 there was a two-year statute of
18 limitations to report sexual abuse in
19 Quebec."

20 Is that accurate sir?

21 MR. LEDUC: No, it is not.

22 MR. LEE: You're certain?

23 MR. LEDUC: I am.

24 THE COMMISSIONER: Wait a minute. Wait a
25 minute. What's not accurate? Are you saying that there's

1 no two-year limitation in Quebec?

2 MR. LEDUC: No, I'm saying that I did not
3 report that to this person.

4 THE COMMISSIONER: Okay.

5 MR. LEE: Thank you, Mr. Commissioner.

6 THE COMMISSIONER: M'hm.

7 MR. LEE: Did you keep a file on this matter
8 sir?

9 MR. LEDUC: Yes.

10 MR. LEE: Yes, you did keep a file on this
11 matter?

12 MR. LEDUC: Yes.

13 MR. LEE: I understood your evidence to be
14 that you had assisted on three sexual abuse matters in the
15 Province of Quebec and that you had not kept a file in
16 relation to any of them.

17 MS. HENEIN: That's just not a correct
18 statement of the evidence. I don't recall Mr. Leduc ever
19 testifying he didn't keep a file on any of them. He
20 testified about certain matters that he assisted with in
21 Quebec and that was it.

22 THE COMMISSIONER: I'm not clear. I'd have
23 to look back at the transcript. So can you rephrase your
24 question or do you want to go back to the transcript?

25 MR. LEE: Was it not your evidence Mr. Leduc

1 that you had -- was it not your evidence that you
2 considered matters of clergy sexual abuse to be especially
3 sensitive and that you did not keep files in relation to
4 these matters?

5 **MR. LEDUC:** That was my evidence, yes.

6 **MR. LEE:** Would that not encompass this
7 matter?

8 **MR. LEDUC:** The file was opened because my
9 client was the victim. And I think there was an exchange
10 of correspondence which was kept in the file. And my
11 recollection is that there was nothing sensitive that was
12 in the file that would have brought me to the conclusion
13 that I should not keep notes or a file.

14 As a matter of fact, my recollection is it
15 was a very brief -- it was a matter that was dealt with
16 rather quickly; a few telephone conversations.

17 **MR. LEE:** If we back up for a moment, am I
18 correct in my restatement of your evidence that you've
19 dealt with three sexual abuse matters arising out of the
20 Province of Quebec?

21 **MR. LEDUC:** Yes, this being one of them.

22 **MR. LEE:** This is one of the three?

23 **MR. LEDUC:** Yes, yes.

24 **MR. LEE:** Is this the only one from which a
25 settlement resulted?

1 **MR. LEDUC:** Yes.

2 **MR. LEE:** Were you acting as a legal counsel
3 on all three of those matters?

4 **MR. LEDUC:** On this one, yes. On the other
5 two, I was being consulted.

6 **MR. LEE:** Can we pull up Volume 255 of the
7 transcript please, page 200?

8 If you look at -- beginning at line 9 sir,
9 your answer is:

10 "And with respect to other sexual
11 assault matters which were from the
12 Province of Quebec, I did not keep
13 files nor notes."

14 **MR. LEDUC:** Yes.

15 **MR. LEE:** You see that?

16 **MR. LEDUC:** Yes.

17 **MR. LEE:** And you're now indicating that
18 that answer was incorrect?

19 **MR. LEDUC:** Yes, because I had this one
20 file.

21 **MR. LEE:** What about in relation to the
22 other two matters, sir?

23 **MR. LEDUC:** No.

24 **MR. LEE:** No files?

25 **MR. LEDUC:** I'm sure of that.

1 **MR. LEE:** You're certain there were no files
2 in relation to those matters?

3 **MR. LEDUC:** No, because they were matters
4 dealt with over the telephone.

5 **MR. LEE:** But you did keep a file in
6 relation to this matter?

7 **MR. LEDUC:** Yes, I did.

8 **MR. LEE:** You still have that file sir?

9 **MR. LEDUC:** No.

10 **MR. LEE:** How do you know that?

11 **MR. LEDUC:** Because it's more than 10 years
12 old.

13 **MR. LEE:** Is it your practice to destroy
14 files once they reach 10 years of age?

15 **MR. LEDUC:** It is now and has been since
16 2001. And all files prior to '93 were destroyed.

17 **MR. LEE:** You have a specific recollection
18 of destroying all files prior to 1993?

19 **MR. LEDUC:** Yes.

20 **MR. LEE:** When was that?

21 **MR. LEDUC:** When was what?

22 **MR. LEE:** When was it that you destroyed the
23 pre-'93 files?

24 **MR. LEDUC:** I believe it was in 2002 or
25 2003.

1 **MR. LEE:** Your evidence to me was that you
2 did not advise this woman that there was a statute of
3 limitation that barred her from bringing a criminal
4 complaint in relation to this matter?

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

6 **THE COMMISSIONER:** Are you aware of any
7 statute of limitations in the Province of Quebec?

8 **MR. LEDUC:** Well, I know there are no
9 limitations with respect to criminal law.

10 **THE COMMISSIONER:** M'hm. Okay. And that
11 was the question, right? She -- C-69, in her document
12 here, alleges that you told her that there was a two-year
13 limitation period on criminal matters. Okay.

14 **MR. LEE:** And do I take it, sir, that the
15 allegation that she was making that resulted in the \$5,000
16 settlement related to sexual -- a sexual assault on her?

17 **MR. LEDUC:** Yes.

18 **MR. LEE:** Clearly of a criminal nature?

19 **MR. LEDUC:** Yes.

20 **MR. LEE:** In the typewritten version that I
21 read to you, it is written, "Had to sign documents that she
22 would never talk about the abuse from Sherbrooke priest
23 ever again." Do you recall such a provision?

24 **MR. LEDUC:** I don't recall it, no.

25 **MR. LEE:** Do you recall her having signed

1 documents?

2 MR. LEDUC: Yes.

3 MR. LEE: There was some form of release?

4 MR. LEDUC: Yes.

5 MR. LEE: Was there anything else you can
6 recall other than the release?

7 MR. LEDUC: No.

8 MR. LEE: And there was no non-disclosure
9 agreement or anything along those lines as far as you can
10 recall?

11 MR. LEDUC: Not that I can recall, no.

12 MR. LEE: Did you advise this client that
13 the net result of the settlement would be that she could
14 not proceed criminally?

15 MR. LEDUC: No.

16 MR. LEE: I want to be clear. Separate and
17 apart from the time limitation issue, did you advise her
18 that the effect of the settlement itself would prohibit her
19 from proceeding criminally?

20 MR. LEDUC: No.

21 MR. LEE: And did you ever, in relation to
22 this woman, draft a release prohibiting a criminal
23 complaint?

24 MR. LEDUC: No.

25 MR. LEE: Did you ever review a release

1 prohibiting a criminal complaint drafted by another party?

2 MR. LEDUC: No.

3 MR. LEE: And did you ever explain to her,
4 regardless of what the release said, that the effect of
5 that release was to operate to prohibit her from proceeding
6 criminally?

7 MR. LEDUC: No.

8 MR. LEE: Do you have a copy of this
9 release, sir, anywhere in your files?

10 MR. LEDUC: It's in the documentation that
11 was submitted to this Commission.

12 MS. HENEIN: These are issues again of
13 privilege. So perhaps ---

14 THE COMMISSIONER: No. What -- the question
15 is, "Does this gentleman have a copy of the release that
16 was signed by C-69?"

17 MS. HENEIN: No, I'm going to need a few
18 minutes -- it's a little more. I'm going to need a few
19 minutes to articulate this correctly.

20 MR. LEE: I don't know what that means, sir.

21 THE COMMISSIONER: Neither do I.

22 (SHORT PAUSE/COURTE PAUSE)

23 MR. LEE: Ms. Heinen advises the objection
24 has been withdrawn.

25 If we can look at Exhibit 1918, I'm guessing

1 that this is what the witness may be talking about and we
2 can have him confirm that.

3 **THE COMMISSIONER:** One nine one eight
4 (1918)?

5 **MR. LEE:** One nine one eight (1918), yes.

6 **THE COMMISSIONER:** One nine one eight
7 (1918), Madam Clerk, 1918.

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

9 **THE COMMISSIONER:** Okay. So it's in the
10 loose stuff.

11 **MR. LEE:** It's probably easier to look at
12 1919, the next exhibit. It will include a February 6th,
13 1995 letter from Mr. Leduc to Detective Fagan, which Ms.
14 Daley brought him to, and then also in that document is a
15 release. One nine one nine (1919) is ---

16 **THE COMMISSIONER:** Okay. I see what you're
17 talking about. Okay.

18 So I don't know where those documents are.

19 **MR. LEE:** I think they would have been
20 entered today.

21 **THE COMMISSIONER:** No, I understand that. I
22 remember seeing it, but -- all right.

23 **MR. LEE:** Do you have that, Mr. Leduc?

24 **THE COMMISSIONER:** No, no, this isn't it.

25 **MR. LEDUC:** One nine one eight (1918)?

1 **THE COMMISSIONER:** Because there's a back
2 page to this with a release on it.

3 **MR. LEE:** You should have a February 6th, '95
4 letter ---

5 **THE COMMISSIONER:** Yes.

6 **MR. LEE:** --- to Detective Mike Fagan as
7 Bates page 032, and 033 will be a "reçu et quittance".

8 **THE COMMISSIONER:** No. Okay. Go ahead.
9 Do you have it, sir?

10 **MR. LEDUC:** Yes, I do.

11 **THE COMMISSIONER:** Okay. Go ahead.

12 **MR. LEE:** There we go.

13 **THE COMMISSIONER:** There we go. All right.

14 **MR. LEE:** So you have the February 6th, '95
15 letter to Detective Fagan?

16 **MR. LEDUC:** Yes.

17 **MR. LEE:** And behind that is a "reçu et
18 quittance"?

19 **MR. LEDUC:** Well ---

20 **THE COMMISSIONER:** No, it's in back of the
21 fax.

22 **MR. LEDUC:** Yes.

23 **THE COMMISSIONER:** Okay. So we have it.

24 **MR. LEE:** Okay. That's fine. Regardless,
25 you have "reçu et quittance", Cornwall, the 30th day of

1 March 1992?

2 MR. LEDUC: Yes. Yes.

3 MR. LEE: Does this relate to C-69?

4 MR. LEDUC: Yes.

5 MR. LEE: Okay. Now, so as I understand it
6 then, in exchange for a payment of \$5,000, your client, C-
7 69, executed this. Is that correct?

8 MR. LEDUC: Yes.

9 MR. LEE: And I take it, we have under the
10 blackouts, the redactions here, we have only names and a
11 Social Insurance Number?

12 MR. LEDUC: Yes.

13 MR. LEE: And the word "criminal" or its
14 French equivalent do not appear here?

15 MR. LEDUC: No.

16 MR. LEE: Nor do the mention -- or nor do
17 the words "civil" or its French equivalent appear here?

18 MR. LEDUC: No.

19 MR. LEE: What we do have in the third line
20 is "Quittances générales, finales et complètes"?

21 MR. LEDUC: Yes.

22 MR. LEE: What's your translation of that,
23 sir -- your rough translation of that?

24 MR. LEDUC: Full and complete release.

25 MR. LEE: Full and complete release?

1 You would have explained this to your
2 client, I take it?

3 **MR. LEDUC:** Yes.

4 **MR. LEE:** She was a layperson; she was not a
5 lawyer?

6 **MR. LEDUC:** No.

7 **MR. LEE:** And I take it you understood that
8 this client was relying on you for legal advice and the
9 interpretation of this release?

10 **MR. LEDUC:** In understanding its impact and
11 effect, yes.

12 **MR. LEE:** Yes.

13 Was your client French speaking, sir?

14 **MR. LEDUC:** Yes. The reason I'm questioning
15 is I'm trying to be careful not to provide any information
16 that would identify her further.

17 **MR. LEE:** I think in this part of the
18 province we should be okay with identifying her as French
19 speaking or not.

20 You know, as a matter of fact, she was
21 French speaking?

22 **MR. LEDUC:** Yes.

23 **MR. LEE:** Fluent in French?

24 **MR. LEDUC:** Yes.

25 **MR. LEE:** And when you provided this to

1 Detective Fagan, the release, I mean, where did you get
2 that from?

3 MR. LEDUC: From the file.

4 MR. LEE: From your own file?

5 MR. LEDUC: Yes.

6 MR. LEE: And that's something you still had
7 at that date?

8 MR. LEDUC: Yes. Yes. It was in a file.
9 Now, whether it was in a precedent file or whether it was
10 in that file, I don't know; I'd have to look at the date I
11 sent it to ---

12 THE COMMISSIONER: Ninety five ('95).

13 MR. LEDUC: Then it would have been
14 destroyed. No, from '94 to '95, no, it would still exist
15 in '95 because we just -- I destroyed them in 2002 or '03.
16 Yes, sorry.

17 MR. LEE: Do you have any knowledge, sir, of
18 the -- in the documents from C-69, there is an allegation
19 that Bishop Larocque also discussed with her that if she
20 ever talked about abuse, he would see to it she was fired
21 from her teaching position with the Catholic Separate
22 School Board. Did C-69 ever communicate that to you?

23 MR. LEDUC: No.

24 MR. LEE: Did you ever have any discussion
25 with Bishop Larocque about that?

1 MR. LEDUC: No.

2 MR. LEE: That's the first you're hearing of
3 that?

4 MR. LEDUC: The first I've read it last
5 week, yes.

6 MR. LEE: Moving back, please, to the
7 Silmsen matter, you've told us several times now that you
8 did not review the final draft of the release before it was
9 signed. That's correct?

10 MR. LEDUC: Yes.

11 MR. LEE: Nor did you review it after it was
12 drafted but before it was signed?

13 MR. LEDUC: Yes.

14 MR. LEE: And nor did you review it after it
15 was signed but before releasing your client's funds?

16 MR. LEDUC: Okay. Yes.

17 MR. LEE: Did you get that question?

18 MR. LEDUC: Yes, yes.

19 MR. LEE: It would have come to you -- there
20 would have been a period of time before you released a
21 cheque and in that interim, you did not?

22 MR. LEDUC: No, I don't think so. I don't
23 want to confuse myself, but I believe I would have given --
24 I believe my evidence was that I gave Malcolm MacDonald the
25 cheque, that he is to hold it in escrow until I received

1 the fully executed documents. So that may not have
2 happened the same day or he may have -- no, I don't believe
3 -- I'm not sure how that happened, whether he held the
4 cheque in escrow or whether I gave it to him and then he --
5 no, he had -- I believe he would have had to have the money
6 before he had the documents signed. That's -- I'm not sure
7 how that sequence happened.

8 **MR. LEE:** Surely your instructions were the
9 funds were not to be paid to Mr. Silmser until you had, in
10 your possession, executed documents?

11 **MR. LEDUC:** Well, until I received the
12 release. Those were not my instructions. That's pretty
13 well standard procedure.

14 **MR. LEE:** It is. An executed release?

15 **MR. LEDUC:** Yes.

16 **MR. LEE:** With a signature on it?

17 **MR. LEDUC:** Yes.

18 **MR. LEE:** And a date?

19 And what I'm asking you is you did not
20 review the documents the second you got them to make sure
21 that before the money went out, you had what you needed?

22 **MR. LEDUC:** No, Mr. Lee, I want to tell you
23 that I did not review the documents when they were handed
24 to me in the brown envelope by Malcolm MacDonald.

25 The question is whether or not he had -- he

1 was already in funds, and I suspect he was already in
2 funds, but holding the funds in escrow, and I think I said
3 something to that effect.

4 MR. LEE: You did.

5 MR. LEDUC: Okay. Thanks.

6 MR. LEE: I don't think we're going over new
7 ground here.

8 MR. LEDUC: Okay.

9 MR. LEE: I'm just trying to, you know, lay
10 a little bit of a foundation and move into something else.

11 My only point is that the Diocese funds were
12 released and you would never confirm there was a signature
13 on release?

14 MR. LEDUC: That's correct, other than
15 receiving that confirmation from Malcolm MacDonald.

16 MR. LEE: You never confirmed that there was
17 a signature on the release?

18 MR. LEDUC: I never viewed the documents
19 myself.

20 MR. LEE: You were asked about press
21 releases and press conferences, and you told us how you
22 view the distinction between the two.

23 Had you ever held a press conference before
24 the Silmsen matter?

25 MR. LEDUC: Yes.

1 **MR. LEE:** And I don't -- you had held a
2 press conference?

3 **MR. LEDUC:** Yes.

4 **MR. LEE:** A number of times?

5 **MR. LEDUC:** Maybe two or three times.

6 **MR. LEE:** Can you tell us very generally
7 what those would have related to?

8 **MR. LEDUC:** Sure. When I was the President
9 of the Student Federation at the University of Ottawa.

10 **MR. LEE:** You held press conferences in
11 relation to your role there?

12 **MR. LEDUC:** Yes.

13 **MR. LEE:** Local press conferences, I take
14 it?

15 **MR. LEDUC:** One of them was national anyway.

16 **MR. LEE:** Had you ever held a press
17 conference as a lawyer?

18 **MR. LEDUC:** Not that I recall, no.

19 **MR. LEE:** On behalf of a client; you recall?

20 **MR. LEDUC:** No.

21 **MR. LEE:** Had you ever issued a press
22 release as a lawyer on behalf of a client?

23 **MR. LEDUC:** No.

24 **MR. LEE:** Prior to the DS matter, I mean?

25 **MR. LEDUC:** That's right, yes.

1 MR. LEE: You had not?

2 MR. LEDUC: No.

3 MR. LEE: You did attend a press conference
4 on January 14th, '94, as we've looked at.

5 MR. LEDUC: Yes.

6 MR. LEE: And Bishop Larocque would have
7 been in attendance at that press conference with you?

8 MR. LEDUC: Yes.

9 MR. LEE: Sitting beside you, I would
10 assume?

11 MR. LEDUC: I'm not sure where he was
12 sitting, but he was there.

13 MR. LEE: And I take it you would have
14 appreciated, on January 14th, '94, the seriousness of the
15 matter?

16 MR. LEDUC: Yes.

17 MR. LEE: That was a national press
18 conference?

19 MR. LEDUC: I thought so, yes.

20 MR. LEE: This was a big deal for your
21 client, I take it?

22 MR. LEDUC: Yes.

23 MR. LEE: And a big deal for you, therefore?

24 MR. LEDUC: Yes.

25 MR. LEE: Did you read the -- did you review

1 the final release before that press conference?

2 MR. LEDUC: No. Not the signed one, no.

3 MR. LEE: And that press conference is where
4 you tell the country that there was nothing in the release
5 preventing Mr. Silmsen from proceeding criminally. Is that
6 right?

7 MR. LEDUC: That's right.

8 MR. LEE: And so your evidence is that you
9 didn't pull and review that release before this national
10 press conference?

11 MR. LEDUC: That's right.

12 MR. LEE: Can we look, please, at Exhibit
13 1914?

14 THE COMMISSIONER: One nine one four (1914).

15 MR. LEE: And you were taken -- if we can
16 look briefly at Bates page 152?

17 MR. LEDUC: Yes.

18 MR. LEE: And you were -- this is one of the
19 documents appended to your Affidavit of Documents, and
20 you're taken here by Ms. Daley. Do you recall that?

21 MR. LEDUC: Yes.

22 MR. LEE: And you have here the -- on page
23 152 the executed final version of the Full Release and
24 Undertaking Not to Disclose. And on the following page, at
25 153, you have the executed Certificate of Independent Legal

1 Advice and the acknowledgment. Do you see those?

2 MR. LEDUC: Yes.

3 MR. LEE: One of the questions you were
4 asked by Ms. Daley was why there was no fax imprint on
5 these if you received them by fax by Gordon Bryan. Do you
6 recall that?

7 MR. LEDUC: Yes.

8 MR. LEE: You've had a little bit of time
9 now. Do you have an answer for that, sir?

10 MR. LEDUC: Well, I can't explain how my --
11 my counsel, or what my counsel did or how he got the
12 original to put in the Affidavit of Documents. It was an -
13 - it's obviously here. I'm not sure if I -- if he got it
14 from another counsel that was involved in the civil
15 litigation, except I can tell you that when I received it,
16 I received it by fax from Gordon Bryan.

17 Did I receive a photocopy afterwards? I
18 don't recall. I may have. But I can't explain to you why
19 there are no fax recordings on this document.

20 MR. LEE: This is your Affidavit of
21 Documents, right?

22 MR. LEDUC: Yes, it is.

23 MR. LEE: Would these documents not have
24 come from you to your solicitor?

25 MR. LEDUC: Yes.

1 **MR. LEE:** I'm just a little bit confused.
2 You asked -- you answered a moment ago that you're not sure
3 where your lawyer got these documents from.

4 **MR. LEDUC:** Well ---

5 **MS. HENEIN:** We don't have the original
6 Affidavit of Documents, and as I'm sure you know,
7 Commissioner, you can get documents. Certainly, when I
8 attach them to affidavits I would photocopy out the -- I
9 would cut out the fax pages.

10 So we don't know unless we have the
11 originals and we have the original file, in my respectful
12 submission, from the lawyer, I don't think that's a fair
13 comment to make, other than Mr. Leduc has now been asked
14 many, many, many times where he got the release. He's
15 indicated that, and I don't know that he can assist any
16 further.

17 **THE COMMISSIONER:** Okay. Thank you.
18 Mr. Lee?

19 **MR. LEE:** The question that I had just posed
20 is Mr. Leduc indicated that he doesn't know where his
21 lawyer got the documents from.

22 **THE COMMISSIONER:** Right.

23 **MR. LEE:** I asked him and he confirmed that
24 this is his Affidavit of Documents, and surely his lawyer
25 would have received the documents from him.

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

2 **MR. LEE:** I would like to -- going back
3 to the release and undertaking, there is no fax stamp on
4 it. What I intended to ask him is how certain he is that
5 it was delivered by fax.

6 **THE COMMISSIONER:** To whom?

7 **MR. LEE:** To him.

8 **THE COMMISSIONER:** To him. Okay.

9 **MR. LEE:** He -- what we've heard from Mr.
10 Leduc is that -- that he received a letter from Mr.
11 Geoffrey that said, "What you said at the press conference
12 wasn't true. Here is the -- here is the clause." He -- I
13 think his evidence initially was he telephoned Gordon Bryan
14 and asked him to fax it over.

15 Ms. Daley brought to his attention there's
16 no fax stamp, and what I'm asking him, is it possible it
17 wasn't faxed over from Gordon Bryan?

18 **THE COMMISSIONER:** Is it possible it wasn't
19 faxed over from Bryan?

20 **MR. LEDUC:** No. I recall requiring Gordon -
21 - asking Gordon to fax it immediately to me, but that
22 doesn't prevent me from getting an actual photocopy -- an
23 actual photocopy of it later and putting it in -- on my
24 desk and then producing it to my -- to my lawyer.

25 I'm just telling you that my recollection is

1 that day I wanted to see it immediately, and I asked Gordon
2 Bryan to fax it to me.

3 MR. LEE: What you were absolutely certain
4 on is the fact that you did not have a copy of this in your
5 office ---

6 MR. LEDUC: That's right.

7 MR. LEE: --- on that day. And you know
8 that you got this from Gordon Bryan?

9 MR. LEDUC: I got the fax copy of the
10 original from Gordon Bryan.

11 MR. LEE: And that's because the Diocese had
12 a file; you did not have a file?

13 MR. LEDUC: That's correct.

14 MR. LEE: Can you look a couple of pages
15 earlier, please, at Bates page ending 148?

16 MR. LEDUC: Yes.

17 MR. LEE: And this is a draft of the Full
18 Release and Undertaking Not to Disclose, and you'll see
19 there are some pencil marks on it, such as the -- the
20 numbering change after paragraph number 1.

21 MR. LEDUC: Yes.

22 MR. LEE: And on the second page "as
23 follows" is stricken and replaced by "to me and Silmser" is
24 in the signature line. Do you see that?

25 MR. LEDUC: Yes.

1 **MR. LEE:** And then over at page 150 we have
2 a draft of the IOA certificate and the acknowledgment?

3 **MR. LEDUC:** Yes.

4 **MR. LEE:** Where did you get these documents,
5 sir?

6 **MR. LEDUC:** I don't recall.

7 **MR. LEE:** Would Gordon Bryan have had these
8 documents in his file?

9 **MR. LEDUC:** I doubt it.

10 **MR. LEE:** Why is that?

11 **MR. LEDUC:** Well, because they're drafts.

12 **MR. LEE:** Is it possible that you turned
13 over your entire file to Mr. Bryan at the time you turned
14 over the sealed envelope?

15 **MR. LEDUC:** No, no. No, I did not turn over
16 my files to Mr. Bryan.

17 **MR. LEE:** Is it possible then, sir, that you
18 did have a file and that these were included in it so that
19 you could provide them in your Affidavit of Documents?

20 **MR. LEDUC:** I'm not certain. I just recall
21 not having a file on this matter -- where these documents
22 come from.

23 **THE COMMISSIONER:** Is that your -- would you
24 have made those changes, sir?

25 **MR. LEDUC:** No. These are Mr. MacDonald's

1 changes.

2 MR. LEE: So the best you can tell us, I
3 take it, is you don't recall having a -- a file on this
4 matter, but it's possible? Is that how we should take your
5 evidence?

6 MR. LEDUC: Yes, yes.

7 MR. LEE: One of the questions Ms. Daley
8 asked you during her cross-examination concerned the effect
9 of the Silmsler settlement and the fallout from that on you.
10 And, as I understood your evidence, you used the word
11 "disastrous".

12 MR. LEDUC: Yes.

13 MR. LEE: What did you mean by that, sir?

14 MR. LEDUC: That I had, together with my
15 family and friends, suffered some embarrassment, serious
16 embarrassment because of the mistake I'd made.

17 MR. LEE: Is there any other fallout from
18 your involvement in the Silmsler matter that you would call
19 disastrous or attribute to that?

20 MS. HENEIN: I'm not sure how my friend's
21 question is relevant to institutional response, or
22 reasonably relevant. He's answered the question. I just
23 don't know that this line of questioning is at all of
24 assistance.

25 THE COMMISSIONER: Can you explain, Mr. Lee?

1 **MR. LEE:** The witness was asked, during
2 cross-examination by Ms. Daley, whether or not -- as I say,
3 I'm paraphrasing -- whether or not, you know, when the
4 effect of the -- of the ---

5 **THE COMMISSIONER:** And he said it was
6 disastrous.

7 **MR. LEE:** It was disastrous. I've asked him
8 to expand on that. He gave me part of an answer. Perhaps
9 it's the full answer. I don't know. He gave me part of an
10 answer and I've asked him, "Is there anything else you can
11 -- why would you" -- I'm curious as to why he would say the
12 effect was disastrous.

13 **THE COMMISSIONER:** Okay. And the question
14 is why is it arguably relevant? How is it relevant?

15 **MR. LEE:** Well, depending on what his answer
16 is, I'm not exactly sure how it's relevant. He, to be
17 perfectly frank with you, sir, has, as you know, at the end
18 of his examination-in-chief, declined to comment on whether
19 or not the effects that he and his family suffered as a
20 result of what happened ---

21 **THE COMMISSIONER:** Him being charged ---

22 **MR. LEE:** Him being charged as an accused
23 person, exactly. And he's also declined to comment on the
24 institutional response and the fallout from that.

25 My question, to be frank with you, when I

1 heard him say that the effect of this was disastrous, I
2 wondered whether or not he was alluding to some fallout
3 from the Silmsler settlement and his role in that that went
4 beyond the role of -- he may tell me there's not, but ---

5 **THE COMMISSIONER:** Go ahead, answer the
6 question.

7 **MR. LEDUC:** Yes, my -- my involvement with
8 this matter brought what I believe to be some very serious
9 consequences.

10 **MR. LEE:** Beyond the embarrassment?

11 **MR. LEDUC:** Yes.

12 **MR. LEE:** That you described a moment ago?

13 **MR. LEDUC:** Yes.

14 **MR. LEE:** And can you explain to me what you
15 mean by that?

16 **MS. HENEIN:** How is this reasonably relevant
17 to the Inquiry? I mean this is -- this gentleman has
18 testified over many, many days. There's a press release.
19 There is a press conference where, as a lawyer, he admitted
20 publicly that he had erred and that he had, you know,
21 affected the interests of his client. He has testified
22 about being sued in third-party claim by the Diocese.

23 I mean in my respectful submission, he's
24 gone through the facts that relate to the Diocese and he's
25 gone through it repeatedly. In my respectful submission,

1 this is not reasonably relevant to the institutional
2 response. And for my friend to ask it and ask it several
3 times, ---

4 **THE COMMISSIONER:** Well, okay. Well, first
5 of all, he hasn't asked it several times. He's just asking
6 him what the effect was and so we're not going anywhere
7 near where he was a defendant. We're just asking him what
8 the effect was to all the -- to the release, to being sued
9 as arising out of it. That's all.

10 **MS. HENEIN:** Mr. Commissioner, he has
11 answered that question. He's answered that question. He
12 went through the whole list with Commission counsel of the
13 things that flowed from this incident, and was asked
14 questions about the lawsuit and reporting it and all of
15 those things were asked.

16 **THE COMMISSIONER:** Right. And he's asking
17 him what's the effect ---

18 **MS. HENEIN:** Again.

19 **THE COMMISSIONER:** No, no, no. He's asking
20 what the effect was on him.

21 **MS. HENEIN:** Well, you have my objection.

22 **THE COMMISSIONER:** Thank you. And you have
23 my ruling.

24 So the effect?

25 **MR. LEE:** What -- I believe what Mr. Leduc

1 indicated was that beyond the embarrassment, there were
2 very serious effects on him and I asked him to expand on
3 what he meant by very serious effects.

4 **THE COMMISSIONER:** So Mr. Leduc, I want you
5 to be very clear on this. I don't -- I don't want to hear
6 about what the effect of -- I know he's going to ask you to
7 separate things a little bit. The effect of what happened
8 when you were charged and all of that, you've chosen not to
9 ask and I'm not going to ask you any questions about that.

10 All he's asking you is about the effect on
11 you of, you know, the settlement and this -- the lawsuit.

12 **MR. LEE:** Mr. Commissioner?

13 **THE COMMISSIONER:** Yes.

14 **MR. LEE:** I'm going to stop beating around
15 the bush here.

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

17 **MR. LEE:** Ms. Henein and I don't agree on
18 the potential scope of Mr. Leduc's testimony and based on
19 what you've just said, you and I may not agree on the
20 potential scope of Mr. Leduc's testimony.

21 I don't know this and it's why I ask the
22 question but I suspect that were Mr. Leduc going to discuss
23 all of the effects of this matter, he would tie his
24 involvement as diocesan lawyer to the charges against him
25 in a conspiratorial kind of way. But for his involvement

1 there and but for the media circus, he never would have
2 been accused. He never would have been charged. He never
3 would have been prosecuted.

4 Again, as I said, I'm not going to beat
5 around the bush. I think that may be the answer I get out
6 of him and I have a basis for thinking that, and that's
7 what I'm asking.

8 You may rule I can't go there but that's my
9 question and Mr. Leduc's answer may well be that I'm dead
10 wrong and he does not tie those two events in any way and
11 that will end the question.

12 **THE COMMISSIONER:** So why -- can you answer
13 the question, sir?

14 **MR. LEDUC:** The issue I have is that those
15 issues are presently the subject of civil litigation and
16 I'm somewhat ---

17 **THE COMMISSIONER:** What -- say that again?

18 **MR. LEDUC:** Those issues that I would raise
19 as an answer to his question are presently the subject of
20 civil litigation.

21 **THE COMMISSIONER:** Well, there you go.
22 That's another one then. So I don't know what the
23 circumstances are with respect to the civil litigation.
24 It's quite clear that under the *Inquiry's Act*, I'm not
25 supposed to go anywhere near there and I don't want to

1 affect that at all.

2 **MR. LEE:** There are a couple of issues. It
3 is plainly and obviously clear that I am not going to get
4 in or touch anywhere near the merits of the allegations
5 against Mr. Leduc, obviously. Whether or not, however, I
6 can ask him depending on his answer with follow-up
7 questions about the institutional response to the
8 allegations made against him is an entire -- I think is an
9 open question at this point.

10 **THE COMMISSIONER:** The institutional
11 response to what again?

12 **MR. LEE:** He was -- we have -- essentially
13 we have Mr. Leduc -- for a lack of a better term, Mr. Leduc
14 wears two hats.

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

16 **MR. LEE:** Diocesan counsel which he has been
17 questioned at length about, and accused person.

18 **THE COMMISSIONER:** Right.

19 **MR. LEE:** As an accused person, he dealt
20 with various institutions.

21 **THE COMMISSIONER:** Right.

22 **MR. LEE:** When asked to give us some
23 evidence on how he felt about his dealings with those
24 institutions, he declined.

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

1 **MR. LEE:** You didn't press him on it.
2 Nobody asked to press it on. I am now at the point where
3 I'd like his answer on this.

4 **THE COMMISSIONER:** All right. Thank you.
5 I've got the issue clear now.

6 **MR. LEE:** Thank you.

7 **THE COMMISSIONER:** Mr. Sherriff-Scott?

8 **MR. SHERRIFF-SCOTT:** My friend is the one
9 opening the door which has previously been shut, but this
10 is my concern. The witness has identified that there is
11 presently civil litigation. I suspect my friend next to me
12 now will confirm that his firm acts in that litigation and
13 I wonder what the foundational basis for his conjecture
14 that this has a linkage with my friend's evidence is and
15 whence it came and why it is being raised here in those
16 circumstances.

17 Thank you.

18 **THE COMMISSIONER:** Ms. Henein, do you wish
19 to say anything else?

20 **MS. HENEIN:** A few moments ago, Mr.
21 Commissioner, you ruled. You indicated that you would
22 allow him to ask the question as it pertained to the
23 fallout in conjunction with the institutional response but
24 not the criminal charges. And my friend, which is why I
25 rose a number of times now, is trying to get into the

1 backdoor into this area and you have clearly commented on
2 this. In my respectful submission, it is inappropriate.

3 **THE COMMISSIONER:** Thank you.

4 Mr. Lee?

5 **MR. LEE:** You undoubtedly commented on this
6 a moment ago. I don't think you ruled on it.

7 **THE COMMISSIONER:** Oh, no, no.

8 **MR. LEE:** Because I don't think you had my
9 position on it.

10 **THE COMMISSIONER:** No, I ---

11 **MR. LEE:** I'm not sure you knew where I was
12 going.

13 **THE COMMISSIONER:** I always listen to the
14 other side first. So go ahead. What else do you have to
15 say?

16 **MR. LEE:** First, Mr. Sherriff-Scott raised
17 the question of whether or not my firm acts in relation to
18 the litigation and we do in relation to two outstanding
19 claims. He also questioned what basis I had for this or
20 for my postulation that perhaps what his answer would be
21 and I don't intend to put it to him.

22 There is a Tax Court of Canada ruling
23 involving Mr. Leduc which states that the appellant, being
24 Mr. Leduc, suggested that the allegations against him arose
25 because of his role as the lawyer for several Catholic

1 priests in the local Catholic Diocese. In his capacity as
2 a lawyer, he helped reach a settlement regarding a priest's
3 sexual misconduct.

4 Indeed, his name became highly publicized as
5 a lawyer for the church. The appellant suggests that his
6 role led to a "conspiracy" to elicit testimony against him.

7 **THE COMMISSIONER:** Okay. So let's frame
8 this correctly or accurately.

9 What's this tax ruling thing? You just read
10 something. What is that?

11 **MR. LEE:** It's a -- it is a ruling *Leduc and*
12 *Canada*, 2005 TCJ number 54, a ruling from the Tax Court of
13 Canada dated February 1st, 2005 by Tax Court Justice
14 Lamarre.

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

16 **MR. LEE:** And I mean it's a -- I don't know
17 if you want the nature. I mean I didn't intend to go to
18 this with him. It's the basis for the question but it's
19 not something I thought I had to put to him. It was simply
20 in response to Mr. Sherriff-Scott's question or suggestion
21 that I had absolutely no basis to ask this question and
22 that I'm pulling this out of thin air.

23 **THE COMMISSIONER:** Mr. Leduc is here as an
24 institutional witness. It is clear to me that he has two
25 hats, for lack of a better word, that one of which was his

1 actions as a lawyer for the Diocese which means that he's
2 part of the institutional response and that's why he is
3 called here.

4 I made it very clear at the beginning or
5 along the way that he was here as an institutional witness
6 only and that alleged perpetrators or people accused had
7 been given an opportunity to come here, if they so wished,
8 to speak about the institutional response as it pertained
9 to them as an accused person.

10 As a principle, I think that it would be
11 most unfair that I now turn around and have Monsieur Leduc
12 answer questions for which he was not brought here for. On
13 the other hand, I want to give as wide a latitude to people
14 cross-examining him on matters that are arguably relevant
15 and which can assist this Inquiry.

16 If I get you right, you're saying, I want to
17 know what the effect was of the signing of the -- this
18 whole -- the release issue with Silmsler, how it has
19 affected him, and what you're saying is that this somehow
20 relates to a conspiracy theory.

21 **MR. LEE:** I'm certainly not suggesting that.
22 I'm saying that Mr. Leduc may well suggest that.

23 **THE COMMISSIONER:** And so how would that be
24 relevant to him? How would it be -- let's assume for a
25 minute that Mr. Leduc says, "Yeah, you're right. This

1 started the whole ball rolling. Not only did I lose my
2 client on this file, I was sued, I was accused, and because
3 of all of this publicity, that's why people came forward
4 and I was accused."

5 How is that relevant?

6 **MR. LEE:** My guess ---

7 **THE COMMISSIONER:** Pardon?

8 **MR. LEE:** My guess is that the evidence from
9 Mr. Leduc may be that his theory is that as a result of
10 being the lawyer for the Diocese involving a high-profile
11 cover-up, as some in the community have perceived it ---

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

13 **MR. LEE:** --- that he was targeted, I would
14 suspect he would say, by Perry Dunlop and his supporters
15 and that from there, complainants were sought out. The
16 allegations against him went from there and things flowed.
17 We've talked about that an awful lot at this Inquiry.

18 And it's a difficult argument to make here.
19 You know, I'm speculating. I have the Tax Court statement.

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

21 **MR. LEE:** I have some idea of what the
22 arguments of Mr. Leduc's counsel at this Inquiry have been
23 and their lines of questioning. I have some materials, but
24 I mean.

25 **THE COMMISSIONER:** Okay. This is a

1 statement you say, the Tax Court rulings.

2 **MR. LEE:** This is a ruling of the Tax Court
3 in which the Tax Court summarizes essentially the
4 submissions of the Appellant, being Mr. Leduc.

5 **THE COMMISSIONER:** Can I just see that
6 portion? I just want it read it over.

7 **MS. HENEIN:** With the greatest of respect,
8 it's being handed up. My friend is on a fishing
9 expedition.

10 **THE COMMISSIONER:** Yes.

11 **MS. HENEIN:** And it is inappropriate. It is
12 attempting to put Mr. Leduc in the position of commenting
13 on an area which he has declined to comment on, and as you
14 indicated, fairly, that it is an opportunity that was
15 offered and if people declined it, they were not compelled.

16 Now, because he is subpoenaed here and has
17 answered questions for four days on the institutional
18 response, in my respectful submission, is not an
19 opportunity for my friend to attempt to backdoor this.

20 Second of all, you've heard submissions from
21 Mr. Kozloff and a number of individuals as to the limited
22 role and capacity in which Mr. Leduc was being called.
23 Those were submissions that were made to you at the outset,
24 and I don't recall my friend rising and raising this issue
25 and I recall that you had already ruled on this issue.

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

2 **MS. HENEIN:** And in terms of latitude of
3 examination and cross-examination, I doubt that anyone
4 would suggest that latitude has not been given to my friend
5 or anybody with respect to Mr. Leduc after four days of
6 testimony before you.

7 **THE COMMISSIONER:** So where is -- Mr.
8 Wallace?

9 **MR. WALLACE:** Yes, if I could just add this
10 sort of word of caution.

11 If an answer was given consistent with what
12 the material you have before you, it may be next to
13 impossible to put the brakes on this type of inquiry and I
14 think the original position, that is he was given the
15 choice whether to get into this area and declined. That
16 should be the guiding post.

17 **THE COMMISSIONER:** Okay, so where in -- you
18 read something to me. Can you point it out to me, please?

19 **MR. LEE:** Do you have numbered paragraph,
20 sir?

21 **THE COMMISSIONER:** No -- yes, I do.

22 **MS. HENEIN:** Is my friend going to give me a
23 copy so I can see?

24 **MR. LEE:** Paragraph 29.

25 **THE COMMISSIONER:** Paragraph 29?

1 Let me get this straight. This whole thing
2 with the Tax Court is whether or not legal fees are
3 deductible?

4 **MR. LEE:** Yes.

5 **THE COMMISSIONER:** Okay.

6 **MR. LEE:** And there was evidence led in
7 support of his claim that they should be deductible.

8 **THE COMMISSIONER:** M'hm. Okay.

9 I am going to limit your questioning, Mr.
10 Lee. I say that for a couple of reasons.

11 First of all, what he thinks about -- we're
12 on page 29 ---

13 **MR. LEE:** Paragraph 29, sir.

14 **THE COMMISSIONER:** Yes, I -- now, you're
15 really trying to -- okay.

16 Whether he thought and still thinks that his
17 role in dealing with the Catholic priests led to a
18 conspiracy to elicit testimony against him, to me is
19 irrelevant to the issues of his testifying with respect to
20 the institutional response.

21 I am also mindful of the fact that he has
22 come here as an institutional witness that you may ask him,
23 if you wish, what the effect was -- when was he charged?

24 **MR. LEE:** Nineteen-ninety-eight (1998).

25 **THE COMMISSIONER:** Nineteen-ninety-eight

1 (1998), so about five years after, and so I think that you
2 can ask him about what the effect was of the fallout of the
3 press conference and the release, but I'm not going to let
4 you go into what happened to him after he became a
5 defendant.

6 **MR. LEE:** May I simply clarify ---

7 **THE COMMISSIONER:** Sure.

8 **MR. LEE:** --- what you just said, sir?

9 My understanding is that Mr. Leduc, in your
10 mind, has been called as an institutional actor?

11 **THE COMMISSIONER:** Yes.

12 **MR. LEE:** And you will limit my questioning
13 of him to his role as an institutional actor?

14 **THE COMMISSIONER:** Yes.

15 **MR. LEE:** Not on the basis that his other
16 roles are relevant but out of an issue of fairness?

17 **THE COMMISSIONER:** Yes.

18 **MR. LEE:** Thank you.

19 **THE COMMISSIONER:** Can you write that for
20 me?

21 **(LAUGHTER/RIRES)**

22 **MR. LEE:** I could. I'll provide the
23 transcript tomorrow, sir.

24 **THE COMMISSIONER:** Just give me your Notice
25 of Appeal, Mr. Lee, and we'll be fine.

1 **MR. LEE:** Sir, you say that ---

2 **THE COMMISSIONER:** Oh, wait a minute, you're
3 not going to ask him the question?

4 **MR. LEE:** I have asked him the question. He
5 has given me his answer I believe as it relates to him as
6 an institutional actor. I -- my understanding is we're
7 done with that. Now, I can ---

8 **THE COMMISSIONER:** Okay. Well then, there
9 we go.

10 **MR. LEE:** Am I right, Mr. Leduc? You've
11 said all you intend to say on that topic as it relates to
12 you as the counsel for the Diocese and its effect?

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

14 **MR. LEE:** We have your evidence that the
15 first time you saw the release document was after receiving
16 a letter from Bryce Geoffrey?

17 **MR. LEDUC:** The signed release document,
18 yes.

19 **MR. LEE:** The signed release, and would you
20 agree with me that in that letter, Mr. Geoffrey was rather
21 unequivocal in his opinion that this was an illegal
22 contract?

23 **MR. LEDUC:** That was his -- the expressions
24 that he used, yes.

25 **MR. LEE:** He wrote that it was contrary to

1 public policy as its expressed purpose is perverting
2 justice?

3 MR. LEDUC: Yes.

4 MR. LEE: Strong language?

5 MR. LEDUC: That was his expression, yes.

6 MR. LEE: And you would agree it was a
7 strongly worded letter?

8 MR. LEDUC: I -- properly worded letter
9 would be my response.

10 MR. LEE: And you then received the copy of
11 the release from Gordon Bryan and you saw, I take it, for
12 the first time the final signed release, and you would have
13 at that point looked and seen the word "criminal"?

14 MR. LEDUC: The paragraph 2, yes.

15 MR. LEE: Yes. And that's the first time in
16 the final signed version that you saw that?

17 MR. LEDUC: Yes.

18 MR. LEE: What was your reaction at that
19 moment when you saw the word "criminal" in the release,
20 sir?

21 MR. LEDUC: Shock, dismay, perturbed.

22 MR. LEE: Sorry, what was the last word,
23 sir?

24 THE COMMISSIONER: Perturbed.

25 MR. LEDUC: Perturbed.

1 **MR. LEE:** Do you recall what your first
2 action was once you reviewed the document?

3 **MR. LEDUC:** No, I don't recall what I did,
4 except I can tell you that I called Gordon Bryan and I
5 believe I may have spoken with the Bishop as well.

6 **MR. LEE:** And you wrote to the Bishop as
7 well?

8 **MR. LEDUC:** Yes.

9 **MR. LEE:** Can we look, please, just briefly
10 at Exhibit 1912? Do you have that, sir?

11 **MR. LEDUC:** Yes.

12 **MR. LEE:** And this is your January 19th, 1994
13 letter to Bishop Larocque?

14 **MR. LEDUC:** Yes.

15 **MR. LEE:** This could be described, I take
16 it, as a reporting letter on this matter to Bishop
17 Larocque?

18 **MR. LEDUC:** If you wish, yes.

19 **MR. LEE:** You're advising him of what you've
20 learned and what has happened?

21 **MR. LEDUC:** Yes.

22 **MR. LEE:** And you enclosed with him, in the
23 first paragraph to him, the January 18th letter from Mr.
24 Geoffrey?

25 **MR. LEDUC:** Yes.

1 **MR. LEE:** And you say at the bottom of that
2 paragraph:

3 "I wish to offer a few comments on this
4 letter."

5 **MR. LEDUC:** Yes.

6 **MR. LEE:** And in the third paragraph, you
7 write:

8 "There is no doubt in my mind that any
9 agreement, the terms of which purport
10 to stifle a police investigation, is
11 void as being contrary to public
12 policy. However, the interpretation of
13 the document in question is subject to
14 numerous points of view, and I would
15 suggest that the matter is not as
16 clearly defined as is suggesting Mr.
17 Geoffrey."

18 Do you see that, sir?

19 **MR. LEDUC:** Yes.

20 **MR. LEE:** What points of view are you
21 referring to there?

22 **MR. LEDUC:** Well, just the fact that what
23 was being advanced by Mr. Geoffrey was certainly being
24 advanced on behalf of his client and that there could be
25 numerous responses to that position taken.

1 **MR. LEE:** I'm not sure, in fairness, sir,
2 that in paragraph 3 you're speaking of responses. You're
3 suggesting that Mr. Geoffrey --

4 "The issue is not as clear cut as Mr.
5 Geoffrey has suggested, his suggestion
6 being that it was contrary to public
7 policy as its express purpose is
8 perverting justice."

9 Did you have any doubt in your mind, upon
10 viewing the release for the first time, that it was not as
11 it should have been?

12 **MR. LEDUC:** No, it was clear that it was not
13 as it should have been.

14 **MR. LEE:** And it was a problem?

15 **MR. LEDUC:** A very -- yes, it was a problem.

16 **MR. LEE:** And that really is the only point
17 of view you could have had when reading that letter or that
18 release, is it not?

19 **MR. LEDUC:** Yes.

20 **MR. LEE:** And I'm just not clear on what you
21 mean by the document in question is subject to numerous
22 points of view.

23 **MR. LEDUC:** Well, the document which is the
24 release can be or could be interpreted from numerous points
25 of view. I don't believe I'm -- I'm just kind of trying to

1 think about what I would have thought then, and that I
2 think Mr. Geoffrey's letter makes other comments about the
3 release, not only the comment in relation to -- maybe I
4 should look at Mr. Geoffrey's letter to ---

5 MR. LEE: Exhibit 276.

6 MR. LEDUC: Two seven six (276) is his
7 letter of January 17th.

8 MR. LEE: Oh, I'm sorry.

9 MR. LEDUC: But received the 18th, I believe.
10 That's why I say in my first paragraph "received the 18th".

11 MR. LEE: Yes.

12 MR. LEDUC: Okay.

13 MR. LEE: I think this is the one we're
14 dealing with, if you look at the first paragraph.

15 (SHORT PAUSE/COURTE PAUSE)

16 MR. LEDUC: Well, I think my -- that
17 sentence that begins "However" refers to all of Mr.
18 Geoffrey's ---

19 MR. LEE: The sentence in your letter, sir.

20 MR. LEDUC: Pardon me?

21 MR. LEE: The sentence in your letter, you
22 mean, that begins "However"?

23 MR. LEDUC: Yes. That probably -- I would
24 think that it refers to all of the letter and not only to
25 the paragraph 2, which is clearly -- which I've commented

1 on clearly in the first sentence of that paragraph. There
2 was no ambiguity in my mind that that paragraph was
3 offensive.

4 **MR. LEE:** The first paragraph or the first
5 sentence of that paragraph in your letter:

6 "There is no doubt in my mind that any
7 agreement, the terms of which purport
8 to stifle a police investigation, is
9 void as being contrary to public
10 policy..."

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

12 **MR. LEE:** "...does not continue."

13 And that's what we have here.

14 **MR. LEDUC:** No, but ---

15 **MR. LEE:** It was absolutely clear in your
16 mind, I take it, that you had a major problem?

17 **MR. LEDUC:** Yes.

18 **MR. LEE:** And that that criminal clause was
19 illegal?

20 **MR. LEDUC:** Yes.

21 **MR. LEE:** Mr. Leduc, those are my questions.

22 **MR. LEDUC:** Thank you.

23 **THE COMMISSIONER:** Thank you.

24 Who's next? Mr. Cipriano?

25 Mr. Manderville?

1 **MR. MANDERVILLE:** Mr. Commissioner, I'd like
2 personally to hear from you as to how late you intend to
3 sit. I have a commitment tomorrow morning in Toronto that
4 it is imperative I attend, and I'm prepared to go out of
5 order, if that would assist.

6 **THE COMMISSIONER:** How long are you supposed
7 to be?

8 **MR. MANDERVILLE:** I'm supposed to be about
9 10-15 minutes.

10 **THE COMMISSIONER:** Supposed to be.

11 **MR. MANDERVILLE:** And I'd be very surprised
12 if I'm that long.

13 **THE COMMISSIONER:** Okay. Well, I've planned
14 to sit, at the latest, until 6:30.

15 **MR. MANDERVILLE:** I think we're in good
16 stead then, sir.

17 **THE COMMISSIONER:** All right.
18 Mr. Cipriano?

19 **MR. CIPRIANO:** I don't have many questions.

20 **THE COMMISSIONER:** You don't have any
21 questions?

22 **MR. CIPRIANO:** No, I don't have many
23 questions.

24 **THE COMMISSIONER:** Okay. Okay.

25 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

1 CIPRIANO:

2 MR. CIPRIANO: Good afternoon, Mr. Leduc.

3 MR. LEDUC: Good afternoon.

4 MR. CIPRIANO: We've met before. I'm here
5 on behalf of Father MacDonald, and I just have very brief
6 questions and they're going to relate to how the
7 institution of the Church responded to the allegations made
8 by Mr. Silmsner against Father MacDonald.

9 And you recall firstly yesterday and the
10 previous days you talked about your role on this committee
11 pursuant to the policy that was in place at the time by the
12 Church?

13 MR. LEDUC: Yes.

14 MR. CIPRIANO: And you were not the
15 designated person, but you were invited to participate as
16 counsel to the Diocese?

17 MR. LEDUC: That's correct.

18 MR. CIPRIANO: When you were being asked
19 questions about -- by Commission counsel about this
20 meeting, and I think it took place on February 9th, 1993,
21 some questions were put to you with respect to whether
22 recommendations were made about removing Father MacDonald
23 from his duties as a priest.

24 MR. LEDUC: Yes.

25 MR. CIPRIANO: And if I understood you

1 correctly, that policy which you were taken to a few times
2 indicated that that was not your role because you were not
3 the designated person?

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

5 **MR. CIPRIANO:** Okay. In fact, it was
6 Monsignor McDougald who was the designated person?

7 **MR. LEDUC:** I believe so.

8 **MR. CIPRIANO:** Okay. So the designated
9 person had a larger, more expanded role or mandate than you
10 did when you were on that committee?

11 **MR. LEDUC:** In accordance with the policy,
12 yes.

13 **MR. CIPRIANO:** Okay. Are you able to tell
14 us what Mr. Silmsler was told, if you know this, about why
15 that committee was meeting with him?

16 **MR. LEDUC:** No. As a matter of fact, I'm
17 not sure how the invitation to Mr. Silmsler was put, whether
18 it was Monsignor McDougald -- it may have been Monsignor
19 McDougald who invited him to attend.

20 **MR. CIPRIANO:** Okay.

21 **MR. LEDUC:** I don't recall.

22 **MR. CIPRIANO:** And we did look at your
23 statement, which is Exhibit 1888, I believe. And we don't
24 need to pull it up, but it appears that you received a lot
25 of information from Monsignor McDougald which would be

1 consistent with his role as the designated person; correct?

2 MR. LEDUC: That's correct.

3 MR. CIPRIANO: Okay. And do you recall
4 being asked questions with respect to -- or questions that
5 presumed or questions directed at this meeting that Mr.
6 Silmsler -- and I'm talking about the February 9th meeting
7 with Mr. Silmsler -- that he was the one who was not asking
8 for compensation but asking for a letter of apology;
9 correct?

10 MR. LEDUC: I recall those questions, yes.

11 MR. CIPRIANO: Okay. And if we could pull
12 up Exhibit 311, please? And if we can scroll down a bit,
13 Madam Registrar. Okay.

14 Now, this is a letter that I don't know if
15 you had seen prior to attending the February 9th meeting,
16 but it was a letter addressed from Monsignor Schonenbach to
17 Monsignor McDougald; correct?

18 MR. LEDUC: Yes.

19 MR. CIPRIANO: Okay. And it's dated
20 December 11th, I believe, 1992. Yes.

21 And if we scroll down, one of the things I
22 recall you saying in your statement was there was a thought
23 that crossed your mind that Mr. Silmsler might be
24 contemplating litigation for some monetary compensation
25 because there's a phrase you used that he had the best

1 lawyers in Ottawa.

2 MR. LEDUC: That's correct.

3 MR. CIPRIANO: Okay. And if we look at the
4 letter, which is Exhibit 311, the last paragraph on that
5 screen -- and I'll read the sentence:

6 "He told me he was raising the matter
7 at this time because he wanted to lose
8 the label of being a bad person. He
9 said, 'For starters, I would like a
10 letter from Father MacDonald
11 acknowledging what he did'."

12 Now, this was given to Monsignor McDougald,
13 but you were at the February 9th meeting; correct?

14 MR. LEDUC: Yes.

15 MR. CIPRIANO: Okay. And if I remember your
16 evidence correctly, you weren't sure who might have raised
17 the issue of compensation?

18 MR. LEDUC: That's correct.

19 MR. CIPRIANO: Is it possible it could have
20 been Mr. Silmser?

21 MR. LEDUC: I don't recall, but it's
22 possible.

23 MR. CIPRIANO: Okay. And ---

24 THE COMMISSIONER: Are you leaving for the
25 day, Ms. Daley?

1 **MS. DALEY:** I'm just excusing myself for
2 this evening. I'll be back tomorrow, sir.

3 **THE COMMISSIONER:** Okay. No, it's just
4 because we were going to talk about start-up time tomorrow
5 morning.

6 **MS. DALEY:** It will be 8:30?

7 **THE COMMISSIONER:** Eight thirty (8:30).

8 **MS. DALEY:** I'm expecting that. Thank you,
9 sir.

10 **THE COMMISSIONER:** Thank you.

11 Sorry, Mr. Cipriano.

12 **MR. CIPRIANO:** No, no problem, Commissioner.
13 I'm almost done.

14 **THE COMMISSIONER:** And for the spectators
15 who probably are leaving for supper, we will be starting at
16 8:30 tomorrow morning, if you wish to be here.

17 **MR. CIPRIANO:** Now, in the statement that
18 you had prepared for Mr. Annis, which is Exhibit 1887,
19 that's your final statement that you've signed, and many
20 people have gone through this with you.

21 This was done in 1994, I think you
22 indicated?

23 **MR. LEDUC:** I believe so, yes.

24 **MR. CIPRIANO:** Okay. By that time, had you
25 had access to read Exhibit 311, the letter addressed to

1 Monsignor McDougald?

2 MR. LEDUC: I may have.

3 MR. CIPRIANO: Okay. In your statement,
4 Exhibit 1888, you go through some of the interaction you
5 had with Mr. Silmser of the February 9th meeting and, in
6 particular, you list about four bullet points of the
7 allegations that he had raised against Father MacDonald;
8 correct?

9 MR. LEDUC: Yes.

10 MR. CIPRIANO: And if we look at Exhibit 311
11 again, Mr. Silmser raised four allegations with you during
12 the February 9th meeting; correct?

13 MR. LEDUC: Yes.

14 MR. CIPRIANO: Now, when we look at Exhibit
15 311, Mr. Silmser is not raising four allegations; he's
16 raising two; correct?

17 MR. LEDUC: Monsignor Schonenbach's letter -
18 --

19 MR. CIPRIANO: Suggests that he's raising
20 two allegations. So there would have been information at
21 least to some members of the committee that after this
22 meeting, Mr. Silmser's allegations were not similar to the
23 ones -- or there were other things added to them as opposed
24 to what he told Monsignor Schonenbach?

25 MR. LEDUC: Yes.

1 **MR. CIPRIANO:** M'hm. Okay. Those are my
2 questions. Thank you.

3 **THE COMMISSIONER:** So Children's Aid
4 Society, no questions still? All right.

5 Mr. Neuberger?

6 **MR. NEUBERGER:** None, thank you.

7 **THE COMMISSIONER:** Thank you.

8 Mr. Kloeze?

9 **MR. KLOEZE:** Thank you, Mr. Commissioner.

10 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

11 **KLOEZE:**

12 **MR. KLOEZE:** Good afternoon, Mr. Leduc. My
13 name is Darrell Kloeze. I'm counsel or one of the counsel
14 for the Ministry of the Attorney General.

15 I just have two very small matters I wanted
16 to clear up with you. The first deals back with the
17 preliminary inquiry of Father Deslauriers. You've been
18 asked many questions about this, and I wanted -- the
19 exhibit is 71C, and I think I can ask you the question
20 without having to go to the exhibit.

21 You agree that I guess at the beginning of
22 the third day, just before Benoit Brisson starts to --
23 starts his cross-examination, you had a conversation with
24 first the Crown Attorney, Mr. Masse?

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

1 **MR. KLOEZE:** And then you had a conversation
2 with Mr. Brisson?

3 **MR. LEDUC:** Yes.

4 **MR. KLOEZE:** And in your conversation with
5 Mr. Masse, he recounts -- he recounts this conversation to
6 the presiding judge when the objection is made by Mr.
7 Charlebois, and the way he recounts the conversation is
8 that you wanted to approach Mr. Brisson to say that if
9 there was a question of confessional privilege, that he
10 should advise the judge.

11 Is that correct?

12 **MR. LEDUC:** Correct.

13 **MR. KLOEZE:** Now, the only question I want
14 to ask you, and it's not gone into -- it hasn't been gone
15 into yet -- Mr. Masse also says that he told you, when he
16 gave you the permission to talk to Mr. Brisson, not to
17 discuss any evidence or testimony that had already been
18 given.

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

20 **MR. KLOEZE:** Do you recall that conversation
21 with Mr. Masse?

22 **MR. LEDUC:** Yes.

23 **MR. KLOEZE:** Okay. And your evidence is
24 that you did not discuss any of that, those matters with
25 Mr. Brisson?

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

2 **MR. KLOEZE:** Thank you.

3 The second matter goes to your conversation
4 with Murray MacDonald around the Silmsler settlement. And
5 again, you've given a lot of evidence about that. There's
6 just one matter I wanted to clear up with you.

7 And I understand your evidence is that at
8 some point in the week between August 25th and September 2nd,
9 1993 -- well, at the meeting of August 25th, Mr. Malcolm
10 MacDonald had already told you that he had raised the
11 matter of a civil settlement both with City Police and with
12 Murray MacDonald?

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

14 **MR. KLOEZE:** And at some point in between
15 that discussion with Malcolm MacDonald and September 2nd,
16 you had a discussion with Murray MacDonald, the Crown
17 Attorney, as well?

18 **MR. LEDUC:** Yes.

19 **MR. KLOEZE:** And I understand the purpose of
20 your discussion, you wanted to advise the Crown Attorney
21 that you were acting for the Diocese, firstly. Is that
22 correct?

23 **MR. LEDUC:** Yes.

24 **MR. KLOEZE:** And that the civil settlement
25 was going ahead?

1 MR. LEDUC: Yes.

2 MR. KLOEZE: Now, you said his response to
3 you was, "Do what you have to do"?

4 MR. LEDUC: That's my recollection.

5 MR. KLOEZE: Okay. Now, in your statement
6 that you gave to Peter Annis, you didn't -- you included
7 the part about Malcolm MacDonald telling you that he had
8 had this conversation with Murray MacDonald, but you
9 actually didn't include the part of your own conversation
10 with Murray MacDonald. Do you take that as accurate?

11 MR. LEDUC: It's not there.

12 MR. KLOEZE: It's not in ---

13 MR. LEDUC: Yes.

14 MR. KLOEZE: It's not in the statement that
15 you gave to Peter Annis.

16 And Mr. Murray MacDonald is going to be
17 testifying at this Inquiry, and his evidence is going to be
18 that in addition to saying to you something along the lines
19 of "Do what you have to do," he also advised you that the
20 criminal case was going to go ahead notwithstanding the
21 civil settlement, that the civil settlement didn't affect
22 the police investigation. Do you ---

23 MR. LEDUC: That second part is more
24 accurate as to what I recall him telling me, that if a
25 criminal process continues, it will do so notwithstanding

1 the civil settlement.

2 MR. KLOEZE: Okay. And you recall that --

3 -

4 MR. LEDUC: Yes.

5 MR. KLOEZE: --- it was Murray MacDonald
6 telling you that?

7 MR. LEDUC: Yeah.

8 MR. KLOEZE: Those are all my questions.
9 Thank you very much.

10 THE COMMISSIONER: Thank you.

11 Mr. Manderville?

12 MR. MANDERVILLE: Thank you, Mr.

13 Commissioner.

14 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

15 MANDERVILLE:

16 MR. MANDERVILLE: Good evening, Mr. Leduc.

17 We've met before. My name is Peter Manderville. I act for
18 the Cornwall Police Service in this matter.

19 I have three areas I want to discuss with
20 you, and I expect they should be fairly brief discussions.

21 First, I want to clarify with you one issue
22 that came up yesterday afternoon. Ms. Jones asked you a
23 few questions about your experience as an accused person.

24 In that capacity, did you have any dealings
25 with my client, the Cornwall Police Service?

1 **THE COMMISSIONER:** No, no, no, no. You're
2 asking him in his capacity as an accused person, right?

3 **MR. MANDERVILLE:** Correct.

4 **THE COMMISSIONER:** And I think ---

5 **MR. MANDERVILLE:** If he had no dealings at
6 all -- if the answer is "I had no dealings at all" that's a
7 full stop. I'm not going to ask a single other question.
8 If his answer is "I did in fact have dealings," then he has
9 declined comment on it, and I don't intend to go further,
10 but it's my understanding ---

11 **THE COMMISSIONER:** Then why ask the
12 question?

13 **MR. MANDERVILLE:** Because Ms. Jones said
14 "I'd like to hear from you about your dealings with the
15 Cornwall Police Service". Mr. Leduc declined comment. If
16 in fact he had no dealings at all with my client ---

17 **THE COMMISSIONER:** Okay. I see what you're
18 doing.

19 **MR. MANDERVILLE:** --- that's something that
20 I would like brought out.

21 **THE COMMISSIONER:** Did you have any dealings
22 with the Cornwall Police?

23 **MR. LEDUC:** Other than the security at the
24 courthouse, no.

25 **THE COMMISSIONER:** Thank you.

1 **MR. MANDERVILLE:** Thank you very much, sir.
2 Secondly -- and I'm moving away from that
3 area -- concerning the Deslauriers matter, am I correct in
4 my understanding that your involvement in the Deslauriers
5 matter and your contacts with my client, the Cornwall
6 Police, were limited to attending at interviews as legal
7 counsel to clergy members?

8 **MR. LEDUC:** That's correct.

9 **MR. MANDERVILLE:** For those interviews being
10 conducted by members of my client?

11 **MR. LEDUC:** Yes.

12 **MR. MANDERVILLE:** And similarly, you
13 attended as legal counsel to the Bishop when the Cornwall
14 Police Service members sought to interview him?

15 **MR. LEDUC:** Yes.

16 **MR. MANDERVILLE:** And in both instances your
17 role was restricted to that of legal counsel for members of
18 the Diocese?

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

20 **MR. MANDERVILLE:** Turning to the Silmser
21 matter, sir, I believe you testified earlier that you had
22 no direct dealings with the Cornwall Police in the Silmser
23 matter. Rather, you received your information about that
24 investigation from Malcolm MacDonald and then to a lesser
25 extent from Murray MacDonald?

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

2 **MR. MANDERVILLE:** And I want to correct one
3 matter that Ms. Daley raised that may have given a
4 misapprehension.

5 If the witness could be shown Document
6 721651?

7 **THE COMMISSIONER:** That's a new one. It's a
8 new document?

9 **MR. MANDERVILLE:** I believe it is, sir.

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **MR. MANDERVILLE:** Mr. Commissioner, I
12 understand that there are a few documents within that
13 document number. I wish to refer only to the first two
14 which are letters dated March 16, 1993 and March 5, 1993.

15 **THE COMMISSIONER:** Okay. But I need -- yes,
16 Ma'am.

17 **MS. JONES:** Can I just have a moment to
18 review the documents?

19 **MR. MANDERVILLE:** Mr. Commissioner, it's
20 been requested that I request that the whole document go in
21 and I'm quite content with that, but I only intend to refer
22 to the two letters at the outset.

23 **THE COMMISSIONER:** So what -- I have to
24 identify Exhibit 1923. So it says Reverend Bob MacDonald,
25 St. Andrews Church, St. Andrews, whatever.

1 So what is this document?

2 **MR. MANDERVILLE:** Well, the relevant portion
3 to which I wish to refer, sir, is a letter dated March 16,
4 1993, two-page letter addressed to Constable Heidi Sebalj,
5 copied to Malcolm MacDonald from ---

6 **THE COMMISSIONER:** No, but that's not my
7 need. My need is to be able to identify the exhibit on the
8 record. So I'll do it this way. Exhibit 1923 is Document
9 number 721651. Okay.

10 --- **EXHIBIT NO./PIÈCE No. P-1923:**

11 (721651) Various Correspondence from CAS
12 Project Blue file regarding DAC and CPS

13 **MR. MANDERVILLE:** And as you know, sir, we
14 are very keen to satisfy your every need.

15 **THE COMMISSIONER:** Oh, yes, I'm sure you
16 are.

17 **(LAUGHTER/RIRES)**

18 **THE COMMISSIONER:** I just want to point out
19 that even the Commissioner has needs.

20 Okay. Go ahead, Mr. Manderville.

21 **MR. MANDERVILLE:** I'm hoping, Mr. Leduc, you
22 have the letter dated March 16, 1993 in front of you?

23 **MR. LEDUC:** I do.

24 **MR. MANDERVILLE:** And that is from an
25 individual who speaks well of his experiences with Father

1 MacDonalld; correct?

2 MR. LEDUC: Yes.

3 MR. MANDERVILLE: The letter is addressed to
4 Constable Sebalj but if you turn to page 2 of the letter,
5 you'll see it as carbon copied to Malcolm MacDonald.

6 MR. LEDUC: Yes.

7 MR. MANDERVILLE: So it would seem that it
8 was intended that the letter also go to Mr. MacDonald.

9 MR. LEDUC: It would seem so, yes.

10 MR. MANDERVILLE: The second letter within
11 that document is a letter dated March 5 or 1993, March 5.

12 MR. LEDUC: Yes.

13 MR. MANDERVILLE: And this is from the RCMP
14 officer addressed to Constable Sebalj. And if you turn to
15 page 3 of that letter ---

16 MR. LEDUC: Yes.

17 MR. MANDERVILLE: --- the last paragraph
18 states:

19 "Please be advised that I will be
20 sending Mr. Malcolm MacDonald, counsel
21 for Father MacDonald, a copy of this
22 statement."

23 MR. LEDUC: Yes.

24 MR. MANDERVILLE: So again, it would seem
25 that it was intended that a copy of this statement also go

1 to Malcolm MacDonald.

2 MR. LEDUC: Yes.

3 MR. MANDERVILLE: So would you agree with
4 me, Mr. Leduc, it's quite possible that Mr. MacDonald got
5 this letter not from the -- these letters not from the
6 Cornwall Police, as Ms. Daley suggested to you, but in fact
7 received them directly from the writers of the letters?

8 MR. LEDUC: Or copies of the letter, yes.

9 MR. MANDERVILLE: Directly from the writers
10 thereof.

11 MR. LEDUC: It would appear so.

12 MR. MANDERVILLE: Next, sir, I'd ask that
13 Mr. Leduc be referred to Exhibit 1900.

14 And this, Mr. Leduc, to refresh your memory,
15 are what are felt to be possibly the notes of Malcolm
16 MacDonald.

17 MR. LEDUC: Yes.

18 MR. MANDERVILLE: If you turn to Bates page
19 7163636 of that document.

20 MR. LEDUC: Yes.

21 MR. MANDERVILLE: You see at the top of that
22 page the notes read:

23 "Talked to David Silmsen today, Aug.

24 24, 1993..." --

25 Aug. being short for August,

1 "..."at 1:20."

2 MR. LEDUC: Yes.

3 MR. MANDERVILLE: He was very cordial.

4 MR. LEDUC: Yes.

5 MR. MANDERVILLE: If you go down to the
6 fourth entry, he indicated that he spoke to Constable Heidi
7 and she said ---

8 THE COMMISSIONER: "It's going to..." ---

9 MR. MANDERVILLE: "It's going to Crown
10 attorney for advice."

11 MR. LEDUC: Yes.

12 MR. MANDERVILLE: Do you see that?

13 MR. LEDUC: Yes.

14 MR. MANDERVILLE: Do you see the next point
15 after that?

16 "He told me he would not proceed with
17 anything if he got a settlement."

18 MR. LEDUC: Yes.

19 MR. MANDERVILLE: So based on these notes,
20 it would appear that Mr. MacDonald is being advised by Mr.
21 Silmsler on August 24th, one, that he'd spoken with Constable
22 Sebalj who is going to the Crown for advice, and two, that
23 Mr. Silmsler is prepared to not proceed with anything if he
24 got a settlement. Correct?

25 MR. LEDUC: Yes.

1 **MS. JONES:** Sorry, I just don't have access
2 to those. I was wondering if the screen could just go down
3 so I could see that last phrase.

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

5 **MS. JONES:** I just want to be able to see
6 the last entry. Just a moment please.

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

8 **MR. MANDERVILLE:** The notes then go on to
9 suggest that Mr. MacDonald and Mr. Silmsler talked about
10 settlement amounts; correct? And what monies could be
11 allocated for treatment and compensation; correct?

12 **MR. LEDUC:** It would seem so.

13 **MR. MANDERVILLE:** And lastly, I'd ask that
14 Mr. Leduc be shown Exhibit 295.

15 **MR. LEDUC:** Yes.

16 **MR. MANDERVILLE:** And I'd ask that you turn
17 to Bates page 7063835.

18 **MR. LEDUC:** Yes.

19 **MR. MANDERVILLE:** What you should have in
20 front of you, Mr. Leduc, are Heidi Sebalj's notes, and the
21 first entry would appear to be dated 23 August 1993.

22 **MR. LEDUC:** Yes.

23 **MR. MANDERVILLE:** "TC" for telephone call or
24 telephone conversation;

25 "...from Malcolm MacDonald. States

1 file diarized for this date. Looking
2 for update."

3 Do you read that?

4 **MR. LEDUC:** Yes.

5 **MR. MANDERVILLE:** Okay.

6 "Advised I was waiting to meet with
7 Crown. Asked that his client be [or
8 by] summonsed and he would escort as
9 opposed to being handcuffed, et
10 cetera."

11 **MR. LEDUC:** Yes.

12 **MR. MANDERVILLE:** "Suggest that I would
13 accommodate or try to accommodate."

14 **MR. LEDUC:** Yes, I see that.

15 **MR. MANDERVILLE:** Further down that same
16 page, August -- 24 August 1993.

17 **MR. LEDUC:** Yes.

18 **MR. MANDERVILLE:** "12:09, return
19 [telephone call or] TC to Dave Silmser
20 requesting progress report. Advised
21 simply awaiting meeting with out of
22 town Crown to review. Asked him if he
23 has pursued counselling. Stated no
24 money; church won't help."

25 And if you turn to the next page, sir, still

1 on the conversation with Mr. Silmser:

2 "Advised he was not in any hurry.
3 Don't care if it takes another four
4 months."

5 And the next entry in the notes would appear
6 to be September 7 of 1993 where Constable Sebalj indicates
7 she receives a letter from Sergeant Brunet advising that
8 the criminal complaint was to be withdrawn.

9 **THE COMMISSIONER:** No, well, actually it was
10 a letter. She was given a letter from Brunet ---

11 **MR. MANDERVILLE:** Enclosing a direction; I
12 agree, sir.

13 **THE COMMISSIONER:** But it was signed from
14 Malcolm MacDonald's office.

15 **MR. MANDERVILLE:** Enclosing a direction
16 signed by Silmser on 3 September '93 to stop any further
17 proceedings.

18 **MR. LEDUC:** Yes, I see that.

19 **MR. MANDERVILLE:** You'd agree with me, based
20 on a review of these notes, both Malcolm MacDonald's, if
21 they are his, and Heidi Sebalj's, that there's nothing in
22 those notes that we looked at to suggest that, first,
23 Constable Sebalj is providing Malcolm MacDonald with
24 details of the criminal investigation?

25 **MR. LEDUC:** That's right.

1 **MR. MANDERVILLE:** Nor is there a suggestion
2 that she's advising the charges will not proceed?

3 **MR. LEDUC:** That's right.

4 **MR. MANDERVILLE:** Sitting here today, Mr.
5 Leduc, is it possible that Malcolm MacDonald may have
6 embellished his information to you concerning the criminal
7 investigation and the unlikelihood of potential charges in
8 an effort to encourage you and the Bishop towards a
9 settlement?

10 **MR. LEDUC:** Unless his information was
11 coming from other sources, this constable's notes are, to
12 me, quite clear.

13 **MR. MANDERVILLE:** So you'd agree with my
14 suggestion?

15 **MR. LEDUC:** Yes.

16 **MR. MANDERVILLE:** And I'd also suggest to
17 you that Malcolm is learning from another source perhaps
18 that the charges may go away if a settlement can be reached
19 with Mr. Silmsen; correct?

20 **MR. LEDUC:** From Mr. Silmsen?

21 **THE COMMISSIONER:** From what source?

22 **MR. MANDERVILLE:** He is hearing from Mr.
23 Silmsen, if the notes are accurate ---

24 **MR. LEDUC:** Yes.

25 **MR. MANDERVILLE:** --- that he may not proceed

1 with anything if he can broker a settlement.

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

3 **MR. MANDERVILLE:** Thank you very much Mr.
4 Leduc.

5 **THE COMMISSIONER:** I think we're going to
6 have to break now. I know I said 6:30.

7 So I'm hoping that we can rely on the senior
8 lawyers -- well they're not senior, but you're all senior
9 lawyers -- that seasoned -- that will be 60 minutes closer
10 to 90, than to 90 because we have a witness from Quebec
11 that I want to deal with tomorrow as well.

12 So we'll start at 8:30 and we'll see where
13 we go. All right, thank you.

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

16 This hearing is adjourned until tomorrow
17 morning at 8:30 a.m.

18 --- Upon adjourning at 5:55 p.m. /

19 --- L'audience est ajournée à 17h55

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

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

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



Sean Prouse, CVR-CM