

**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 123

Held at :

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

Friday, June 29, 2007

Tenue à:

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

Vendredi, le 29 juin 2007

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Mr. John E. Callaghan Mr. Mark Crane	Cornwall Police Service Board
Mr. Neil Kozloff Ms. Diane Lahaie	Ontario Provincial Police
M ^e Claude Rouleau	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Stephen Scharbach	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Ms. Jill Makepeace	Mr. Jacques Leduc
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. John R.S. Westdal	Mr. Jos Van Diepen

Table of Contents / Table des matières

	Page
List of Exhibits :	v
Statement by The Commissioner/Déclaration par le Commissaire	1
Preliminary Matters by/Matières Préliminaires par Mr. Peter Engelmann	12
Submissions by/Représentations par Mr. Neil Kozloff	15
Submissions by/Représentations par Mr. David Sherriff-Scott	16
Submissions by/Représentations par Mr. John Callaghan	19
Submissions by/Représentations par Mr. Allan Manson	20
Submissions by/Représentations par Mr. Dallas Lee	21
Submissions by/Représentations par Mr. Peter Engelmann	23
Ruling by the Commissioner/Décision par le Commissaire	28
Submissions by/Représentations par Mr. John Callaghan	29
Submissions by/Représentations par Mr. Allan Manson	33

LIST OF EXHIBITS/LISTE D'EXHIBITS

NO.

DESCRIPTION

PAGE NO

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

2 L'audience débute à 9h38

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

6 Please be seated. Veuillez vous asseoir.

7 --- **STATEMENT BY THE COMMISSIONER/DÉCLARATION PAR LE**
8 **COMMISSAIRE:**

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

11 What I intend to do today is to start off
12 with giving my -- sharing some thoughts with respect to how
13 the Inquiry is going and where we are going to go after we
14 come back from the summer break. Once I have done that,
15 then we will continue on with today's suggested outline,
16 and I'll outline what I intend to do with respect to the
17 evidence we will hear this morning.

18 There seems to be an actual rhythm in the
19 year's journey; places on the calendar that mark a pause, a
20 time to look back and look forward. I think everyone needs
21 to stop and look at the map before returning to the day-to-
22 day steps that accomplish this journey.

23 Now, in January, I gave you an overview of
24 what I saw coming over the next few months. Today, I will
25 be giving you a further itinerary for our work together.

1 June is the school year end. It's a time for reflection on
2 past accomplishments and for anticipation of the future.
3 As thousands of students in the four boards serving this
4 community look forward to their summer and return to school
5 in the fall, I too look forward to progress in meeting the
6 mandate of the Cornwall Public Inquiry.

7 This summer concludes most of the work on
8 hearing from victims or alleged victims who made complaints
9 to institutions regarding sexual abuse experience as
10 children or youth. I expect that by the end of August,
11 this evidence will be complete and the Inquiry will then
12 turn to new chapters of evidence.

13 A public inquiry always has a responsibility
14 to educate and raise awareness. The context evidence
15 provided at the inception of the Inquiry's hearings was
16 exceptional, but it is also the face of human experience
17 that increases awareness about issues that affect every
18 community. Now, the issue of whether there should be oral
19 testimony by victims and alleged victims was once a matter
20 of dispute. I had to make a decision. It is a decision
21 that has proven its value in bringing forward important
22 evidence, testing that evidence and providing a needed
23 sense of human experience to the monumental documentary
24 record.

25 Il y a une autre décision que j'ai dû

1 prendre concernant le témoignage des victimes. Celle de
2 mettre en place un programme de soutien aux témoins.
3 Proposé à l'origine par Me Bennett au nom de son client, le
4 « Men's Project », ce programme a été très bien accueilli
5 par de nombreux avocats et témoins. J'aimerais aborder la
6 question de la prolongation du programme de soutien aux
7 témoins. Certains pourraient penser que comme nous passons
8 à d'autres étapes de notre travail, ce programme n'est plus
9 nécessaire. Ce n'est pas le cas et pour d'importantes
10 raisons.

11 Au cours de la prochaine étape de la
12 présentation des témoignages, la Commission d'enquête
13 continuera d'offrir les services de soutien aux témoins
14 dans les conditions que les témoins souhaitent. C'est ce
15 qu'exige le principe de bon déroulement des audiences.

16 Bien entendu, un grand nombre des témoins
17 qui comparaitront cet automne et cet hiver sont des
18 professionnels employés par leur institution qui ne
19 témoignent pas sur leur vie privée. Cependant, il est
20 évident que venir témoigner devant une commission d'enquête
21 publique ne fait pas partie des activités quotidiennes d'un
22 employé. C'est la raison pour laquelle l'Enquête publique
23 sur Cornwall a décidé de maintenir la vaste gamme de
24 services qu'elle a mise à la disposition des témoins. Et
25 je rappelle à tous l'existence de notre programme de

1 counselling.

2 In other words, I want to emphasize that
3 each stage of the Inquiry journey has different challenges
4 and information, but all stages are based on the consistent
5 principles of conduct of these hearings: respect,
6 openness, balance and thoroughness.

7 The principle of openness has supported an
8 inclusive approach to granting of party status. I have,
9 for example, left the door open to the Coalition for Action
10 on Child Sexual Abuse in Cornwall that originally sought
11 standing as a party. That door to pursuing the application
12 for standing is still open, provided legally required
13 information is provided.

14 Principles of balance and thoroughness
15 continue to guide this Inquiry. So I will remind everyone
16 to remember that evidence at an inquiry is provided over a
17 long time. The full picture is not in place until all
18 evidence is concluded. It is essential, and I say
19 essential, to maintain an open mind until all the evidence
20 is received. As I have said in the past, it is important
21 to be receptive to the full evidentiary record in all of
22 its complexity and consisting of the full range of
23 perspectives.

24 Looking forward to September, this Inquiry
25 will move to wrap up context testimony by hearing from an

1 expert or experts on the response of the Roman Catholic
2 Church to allegations of child sexual abuse. The Inquiry
3 will also receive institutional background evidence from
4 the Catholic District School Board of Eastern Ontario.

5 Having completed context and victim
6 evidence, the Inquiry will call witnesses who do not
7 themselves claim to be victims of sexual abuse but who took
8 an interest in allegations of childhood sexual abuse in
9 Cornwall. Over a certain period, individuals intervene in
10 various ways; some making public their views that there was
11 disregard for, or mishandling of information about
12 childhood sexual abuse in Cornwall. Some were of the view
13 that there was suppression of information or deliberate
14 cover-up of abuse of children and youth. The Inquiry
15 intends to call as witnesses those who can give evidence on
16 this period. Both Mr. Perry Dunlop and Mrs. Helen Dunlop
17 continue to be of interest to the Inquiry as potential
18 witnesses.

19 As well, Commission counsel will also
20 provide documentary overviews of evidence.

21 Il est également prévu d'aborder une
22 question qui a été souvent soulevée; le rôle des médias.
23 Il est intéressant de noter que des témoins ont révélé
24 avoir été influencés par leur perception de la couverture
25 médiatique. Il semble aussi que la réaction des médias ait

1 joué un rôle pour quelques institutions ou peut-être même
2 toutes les institutions à des moments différents.

3 La Commission d'enquête préfère une analyse
4 plus méthodique des dossiers des médias de l'époque. Il
5 nous faudrait peut-être recourir au témoignage d'un expert
6 dans ce domaine.

7 En octobre, la Commission d'enquête aura
8 l'occasion d'entendre le témoignage de personnes qui ont
9 fait l'objet d'une enquête ou qui ont été accusées par des
10 mauvais traitements sexuels à l'endroit des enfants. Ces
11 témoins ne seront pas interrogés sur les faits entourant
12 l'enquête ou les accusations. Ils seront appelés plutôt à
13 commenter la conduite des institutions avec lesquelles ils
14 ont eu des contacts. Si personne ne se présente pour ce
15 genre de témoignage, les avocats de la commission
16 pourraient présenter des preuves par l'intermédiaire du
17 mécanisme des rapports sommaires.

18 Institutional response is a significant
19 portion of the Inquiry's work that will keep the Inquiry
20 occupied for many months. We anticipate proceeding in the
21 following order: institutional response evidence will
22 start this fall with the Ministry of Community Safety and
23 Correctional Services. That Ministry will be followed by
24 the Cornwall Police. The Diocese of Alexandria-Cornwall
25 will be next. The two school boards will proceed after

1 that. The Children's Aid Society of Stormont, Dundas and
2 Glengarry will follow. The OPP, in both its local role and
3 its role in respect to Project Truth, is next occupying the
4 largest period of time in the institutional hearings
5 calendar. The Ministry of the Attorney General will be the
6 last institution giving testimony wrapping up in July of
7 2008.

8 As is the case with all inquiries, this
9 Inquiry may issue confidential Section 5(2) notices under
10 the *Public Inquiries Act*. A Section 5(2) notice is a
11 notice of misconduct that can be issued to an individual or
12 to an institutional organization. Notices can be issued
13 and amended over the lifetime of the Inquiry as long as an
14 opportunity to be heard is provided to the individual,
15 institution or organization receiving the notice.

16 All counsel are aware of the schedule I have
17 outlined and of their obligations. Given this long notice,
18 I expect everyone will be prepared as well as Commission
19 counsel. There should be as little slippage as humanly
20 possible. I expect that everyone involved will be
21 accommodating with their schedules to reduce delay. I do
22 respect that counsel have other lives, both professional
23 and personal. Fortunately, they also have colleagues to
24 step in.

25 No one person's interest is greater than the

1 public interest and the public interest is to move forward.

2 I expect everyone to plan accordingly.

3 La Phase 2 se déroule parallèlement à la
4 Phase 1. En juillet, nous fêterons le premier anniversaire
5 de la création du Comité consultatif. J'en suis moi-même
6 surpris parce que je suis ébahi par tout ce que nous avons
7 accompli et par l'espoir et l'énergie qui nous guident vers
8 les objectifs de renouveau, de rétablissement et de
9 confiance et de réunification de la collectivité.

10 Le 2 mai, nous avons franchi un jalon
11 important en convoquant une réunion sous le thème
12 « Instaurer l'espoir, la confiance et la fierté ». Les
13 participants à cette journée étaient d'horizons très
14 différents, réunis pour discussions de guérison et de
15 réconciliation.

16 Le Comité consultatif prévoit une autre
17 réunion de ce genre le 18 octobre de cette année. Il y en
18 aura d'autres, si elles s'avèrent favoriser l'avancement
19 des objectifs pour l'avenir. Notre vision de l'avenir est
20 celle d'un avenir reposant sur des solutions locales
21 fabriquées à Cornwall, en d'autres mots, visant à créer un
22 communauté renouvelée, accueillant en son sein ceux qui
23 portent le fardeau de mauvais traitements sexuels commis
24 durant leur enfance.

25 From the May 2nd day came various ideas for

1 some work. The Advisory Panel Inquiry staff are working
2 with those who are interested in several issues with
3 sub-groups and with larger groups meeting at various times.

4 The Advisory Panel philosophy is to walk
5 with the community, to respect local experience and
6 expertise, and to do what can be done to inspire support
7 and sometimes push gently. In turn, the Panel has told me
8 that they had been inspired, supported and sometimes pushed
9 by those they have felt honoured to meet.

10 This work is unique and has risks; the risk
11 of trying to make progress on healing, not just to write
12 recommendations about it.

13 It will be one of the most interesting
14 journeys within the Inquiry. One I hope continues long
15 after this Inquiry has delivered its report.

16 In the course of the Phase 2 work, a wise
17 woman of this community has said "Be patient. We must have
18 faith in ourselves". We should all listen to her.

19 Phase 2 research is deliberately action-
20 oriented. I have announced those initiatives approved for
21 funding. Work has already begun on many activities.

22 Just a few examples include the SOSA Group
23 Self Help Educational Website is under construction. SOSA,
24 of course, is a survivor-based group here in Cornwall.

25 Research prepared by the Men's Project on an

1 ombudsman or other entity to act as a guide or support for
2 those who experienced sexual abuse is underway.

3 So, too, is research into the legal and
4 ethical implications of apologies to be carried out by Ms.
5 Leslie MacLeod, an experienced mediator.

6 The Circles and Support and Accountability
7 sponsored by the Anglican St. John Evangelist Church is
8 starting its research in respect on treatment options for
9 men who sadly were abused as children and unfortunately
10 became abusers.

11 The Gatehouse is starting work on a research
12 project to pilot a participant and mentorship program. The
13 intention is to transfer approaches that worked elsewhere
14 to Cornwall and build local capacity to do this work.

15 Several of the research pieces are excellent
16 candidates for workshops over the winter months of 2008.
17 The research will hopefully have Ontario-wide implications,
18 and perhaps beyond Ontario. Workshops will be here drawing
19 in others to learn from and with Cornwall.

20 Another unique aspect of the mandate of this
21 Inquiry is the capacity to have informal non-evidentiary
22 opportunities for people to relay their experiences and the
23 life impact of these experiences. This is rather a
24 mouthful. What this is really about is allowing people to
25 talk of their journey in a safe place and perhaps enlighten

1 their heavy burden.

2 This is a process that will benefit from
3 consultation, both on technical matters and on whether the
4 process meets needs or expectations. It can also help
5 those who are interested to understand what is possible in
6 these informal processes, and what is not.

7 Commission staff have already had an all
8 counsel meeting and plan another. This fall the Advisory
9 Panel intends to talk to people who may wish to give
10 informal accounts of their experiences and the impact on
11 their lives. They will discuss some options, walk through
12 how they could work, and hear what people have to say.

13 My decision on how to proceed will be made
14 before the end of this year so we can prepare for these
15 opportunities.

16 My statement today has been lengthy. This
17 is not surprising. It is the product of months of planning
18 and work.

19 I have set out the path this Inquiry will
20 take. I intend to move forward on this path. In moving
21 forward, this Inquiry will not leave core principles
22 behind, but carry them forward. And I hope to leave this
23 community and all communities with the awareness and
24 knowledge that will make a difference.

25 I intend to continue to keep the parties and

1 the public informed of our directions through regular
2 updates such as this one. I intend to provide a further
3 update in August.

4 Among other matters, I will detail changes
5 to the fall and winter schedule designed to increase
6 hearing time.

7 For those on break in July, I hope that you
8 enjoy the time off and rest up for a busy and important
9 fall. For the thousands of children out there for the
10 summer, the students for which I spoke of at the beginning
11 and for whom we have an interest in this Inquiry, I hope
12 that they have a safe, active and fun summer.

13 Thank you.

14 Mr. Engelmann -

15 ---PRELIMINARY MATTERS BY/MATIÈRES PRÉLIMINAIRE PAR MR.

16 **PETER ENGELMANN:**

17 **MR. ENGELMANN:** Sir, when we left off
18 yesterday, Mr. Manson was in his cross-examination, and you
19 had asked for certain materials to be played in the
20 presence of the witness.

21 **THE COMMISSIONER:** Yes.

22 **MR. ENGELMANN:** I just wanted to report sir
23 on the length of these recordings and confidentiality
24 issues if I may.

25 One of the recordings is currently Exhibit

1 571, and this is an audio-taped conversation. This is the
2 conversation where Mr. Dunlop audiotapes -- or tapes a
3 phone call that he has with Mr. Leroux on May 30th, 1997.
4 It is approximately 30 minutes long.

5 I have reviewed it, sir. It does not
6 mention any of the names that are currently covered by
7 monikers. That could be played openly in the hearing room.
8 And as I said, it's approximately 30 minutes long.

9 The second interview is a video-taped
10 interview -- December 1st, 1996, it's Exhibit 568. This is
11 a videotape that is done by Mr. Dunlop. Mr. Leroux is
12 speaking on it; it is approximately one hour long. Names
13 are mentioned that are subject to monikers and publication
14 bans. We would have to play that tape, sir, in-camera,
15 given the concern about publishing over the web.

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

17 **MR. ENGELMANN:** Lastly sir are the two
18 videotapes of interviews with the OPP on February 7th, 1997.

19 The first one, Exhibit 572, is just over two
20 hours long; two hours and four minutes.

21 The second one, Exhibit 573, is just under
22 17 minutes long. Those interviews have, again, mention of
23 individuals who are subject to monikers, so again would
24 have to be played in-camera.

25 I don't know your preference as to order. I

1 thought perhaps we'd start with the audiotaped interview --

2 -

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

4 **MR. ENGELMANN:** --- which is half an hour
5 long, which could be played publicly.

6 **THE COMMISSIONER:** M'hm. All right. Maybe
7 we should get Mr. Leroux in now.

8 **MR. ENGELMANN:** Yes.

9 **THE COMMISSIONER:** And then I'll make my
10 comment.

11 Mr. Lee --

12 **MR. LEE:** If I could have a moment.

13 **MR. ENGELMANN:** No, no. It's a good point.

14 Mr. Lee has mentioned something to me and
15 that is that -- the concern about -- I'll let him speak to
16 it in a second, but his question was whether or not the
17 actual playing of the videotape or videotapes need be in-
18 camera, or whether we simply shut off the web cam.

19 **THE COMMISSIONER:** Oh, oh, oh; right, right.
20 Very good point.

21 **MR. ENGELMANN:** We have been using monikers,
22 and we have publication bans, and the purpose for that is,
23 of course, broadcasting over the web. I think he's right,
24 sir, in saying that people that are in the hearing room
25 can't listen.

1 **THE COMMISSIONER:** Oh, absolutely.

2 **MR. ENGELMANN:** Unless anyone else has any
3 comments to make on that?

4 **THE COMMISSIONER:** No, I think we used
5 "in-camera" generically.

6 The concern is that if something is
7 broadcast, whereas the publication ban does not prevent
8 people from staying in the hearings room, except, of
9 course, for comments from Mr. Kozloff.

10 Good morning, sir.

11 **MR. ENGELMANN:** I will turn the mic over.

12 **THE COMMISSIONER:** Thank you.

13 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. NEIL KOZLOFF:**

14 **MR. KOZLOFF:** I just thought I'd bring to
15 your attention, sir, there's also a videotaped interview of
16 Mr. Leroux by Detective Constable Genier and Detective
17 Inspector Hall -- at that time, Detective Sergeant Hall, on
18 November 25th, 1997; and the length of that is
19 approximately three hours.

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

21 **MR. KOZLOFF:** The reason I bring it to your
22 attention is because it goes into much greater detail about
23 certain aspects which are germane to your mandate and, I
24 believe, to your interest in hearing Mr. Leroux, than even
25 the interview in February. There are a lot of

1 clarifications, revisiting of important issues; I just
2 thought I would bring that to your attention.

3 **THE COMMISSIONER:** Right; yes sir.

4 So that's a third video?

5 **MR. KOZLOFF:** Effectively, yes. It's a
6 third video, but really the second day that -- the first
7 two videos are conducted on February 7th, and they literally
8 follow one upon the other --

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

10 **MR. KOZLOFF:** -- by Bell and Anthony. This
11 is the third video.

12 **THE COMMISSIONER:** Right.

13 **MR. KOZLOFF:** Thank you.

14 **MR. ENGELMANN:** Sir, that is Exhibit 574
15 that Mr. Kozloff was referring to.

16 I would agree with him that there is more
17 clarification; there's certainly more questioning --

18 **THE COMMISSIONER:** M'hm. That's fine.

19 **MR. ENGELMANN:** -- by those two officers
20 than what we saw earlier.

21 **THE COMMISSIONER:** M'hm. Okay.

22 Mr. Sherriff-Scott?

23 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. DAVID SHERRIFF-
24 SCOTT:

25 **MR. SHERRIFF-SCOTT:** On the playing of these

1 tapes and videos, notwithstanding the comments of my friend
2 here, opposite on the right, I would request that they be
3 played in-camera because of the concerns that I've
4 articulated in the past about people who -- well, a lot
5 people now -- this witness says he never saw anything about
6 -- but there are still people he contends either abused him
7 or he witnessed abusing others who were investigated and
8 not charged. And these things contain a fairly significant
9 amount of detail about the allegations; in other words, he
10 goes through in explicit detail, and goes through all of
11 his allegations.

12 I'm not suggesting it's a practice, but when
13 we dealt with Father Dubé's material, we were careful to
14 try and ensure that the examinations were not -- sort of
15 inflammatory, in the sense that they walked through all
16 that detail.

17 I would suggest that it's more important or
18 as important for people here investigated but not charged,
19 and so since that is something that is explicit on these
20 statements and videos, I'd ask they be played in-camera.

21 **THE COMMISSIONER:** Well, I hear you.

22 **MR. SHERRIFF-SCOTT:** Yes.

23 **THE COMMISSIONER:** But is there not a
24 difference in the sense that with respect to Father Dubé --
25 while, of course, he was found not guilty, which is a very

1 important fact.

2 **MR. SHERRIFF-SCOTT:** Yes.

3 **THE COMMISSIONER:** The other important fact
4 was that the witnesses still maintain that it was him, and
5 so there was a friction there; whereas here, there is a
6 difference in the sense that -- and correct me if I'm wrong
7 -- that this gentleman is now saying: While I may have
8 said that, that is not true.

9 **MR. SHERRIFF-SCOTT:** Oh yes, he's departed
10 from a ---

11 **THE COMMISSIONER:** No, no; but what I'm
12 saying is that sure we might hear some things and some
13 people might be surprised, but they're also hearing in the
14 same breath that it's not true. So where is the prejudice
15 in that?

16 **MR. SHERRIFF-SCOTT:** Well, I agree with you,
17 the man has said here, this week, that many, many, many
18 allegations are not true or things that he didn't witness;
19 whereas, hitherto, to this point, he's contended, on paper,
20 that they were.

21 But there are still at least four
22 individuals in connection with whom he has not resiled from
23 allegations of abuse and they are detailed on these
24 statements and videos. They are four individuals
25 associated with my client.

1 He has partly resiled from one of them ---

2 **THE COMMISSIONER:** Yes, right.

3 **MR. SHERRIFF-SCOTT:** --- but three others,
4 he has not.

5 **THE COMMISSIONER:** Okay.

6 **MR. SHERRIFF-SCOTT:** Thank you.

7 **THE COMMISSIONER:** So I understand your
8 point.

9 Let's see what other people have to say
10 about that, then.

11 Anybody have any comments?

12 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. JOHN CALLAGHAN:**

13 **MR. CALLAGHAN:** As you've heard, there are a
14 sequence of events that transpired with Mr. Leroux. Going
15 down to Maine; going to Toronto ---

16 **THE COMMISSIONER:** Yes.

17 **MR. CALLAGHAN:** What -- I don't think has
18 been put together, and it's important when you get to this
19 stage, is that on the other side you're going to hear that,
20 for example, on the 13th of November you've seen
21 Affidavits.

22 On the 15th of November, Mr. Dunlop was
23 filing an Amended Statements of Claim, and I think for you
24 and for the public you might want to hear these
25 sequentially, because when you hear them out of order, you

1 may not get the feel.

2 I think the audiotape, for example, is the
3 last thing, and I understand why Mr. Engelmann was
4 suggesting it, because he thought he might be able to play
5 it publicly -- but that's May 30th, '97.

6 **THE COMMISSIONER:** Yes, okay.

7 **MR. CALLAGHAN:** It may be that you want to
8 think about that, but it seems to me that's one issue that
9 you might want to consider.

10 **THE COMMISSIONER:** Okay, so you're not
11 commenting on Mr. Sherriff-Scott's application for having
12 it in-camera?

13 **MR. CALLAGHAN:** No sir.

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

15 Mr. Manson?

16 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. ALLAN MANSON:

17 **MR. MANSON:** We have no comments on the
18 question of how these items are played, but I do agree with
19 Mr. Callaghan that, given the importance of the exercise,
20 it would be helpful if we do it chronologically, because
21 our position is there is an evolution and this plays into
22 that.

23 **THE COMMISSIONER:** No; that's fair.

24 **MR. MANSON:** Thank you.

25 **THE COMMISSIONER:** That's fair. Thank you.

1 Mr. Lee, do you have any further comments?

2 **MR. LEE:** Sir, with respect to Mr. Sherriff-
3 Scott's request, this isn't an easy question to answer, I
4 don't think.

5 What he's putting to you, he's essentially
6 saying, as I understand it, there are details of abuse in
7 this thing and they're prejudicial to his clients, that
8 they well may embarrass the witness or not, I have no idea,
9 but that's not the purpose for the playing of these tapes.

10 The purpose for the tape is so that you can
11 appreciate, and the witness can appreciate -- the public
12 can appreciate the tone of these things, the tenor of these
13 things, his dealings; and we can accurately assess, and
14 hopefully help the witness assess exactly what he said, how
15 he said it, when he said it.

16 The details that he's going to get into and
17 the allegations themselves are collateral to that; they're
18 in there and there's no way to separate them, and so be it.

19 **THE COMMISSIONER:** There's no way to
20 separate them? Well, I'm thinking about that; there may
21 well be.

22 **MR. LEE:** Well, I mean if we can --- You
23 know, one of my thoughts yesterday was we don't need to go
24 in-camera; maybe there's some way to mute out the saying of
25 the name. I'm told that's probably not possible.

1 You know, I don't if we could play portions
2 of the tape -- and not what portions -- and who decides
3 what gets played and what doesn't; I mean it gets
4 difficult.

5 My submission is I have clients in the room
6 now -- I have clients who are likely to come in and out
7 through the day -- and I think they should be in the room
8 and be entitled to hear this, and it's important evidence,
9 and it's something that they should be able to assess for
10 themselves, and not have to rely on me to tell them about
11 afterwards. Sort of, kind of -- of what I can tell them
12 that went on in-camera is essentially my point.

13 **THE COMMISSIONER:** M'hm. Okay.
14 Anybody else? Mr. --- I don't have my
15 list.

16 Mr. Chisolm?

17 **MR. CHISOLM:** Good morning, sir.
18 No comments, thank you.

19 **THE COMMISSIONER:** Thank you.

20 Mr. Rouleau? Excuse me.

21 **MR. ROULEAU:** I have no comments.

22 **THE COMMISSIONER:** Thank you.

23 Mr. Scharbach?

24 **MR. SCHARBACH:** Good morning,
25 Mr. Commissioner.

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

2 **MR. SCHARBACH:** I have nothing to add; thank
3 you.

4 **THE COMMISSIONER:** Ms. Makepeace?

5 **MS. MAKEPEACE:** I have nothing.

6 **THE COMMISSIONER:** Thank you.

7 Mr. Sherriff-Scott, anything else?

8 **MR. SHERRIFF-SCOTT:** No sir. That's fine
9 with me.

10 **THE COMMISSIONER:** Thank you.

11 Okay, Mr. Callaghan has spoken, Mr. Kozloff
12 has spoken; Mr. Wallace, do you have anything to say?

13 No?

14 That does it, I think.

15 Mr. Westdal, I don't know that -- all right.

16 Mr. Engelmann.

17 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. PETER ENGELMANN:**

18 **MR. ENGELMANN:** Sir, I have certainly no
19 problem with the suggestion that these be played
20 chronologically.

21 **THE COMMISSIONER:** Yes.

22 **MR. ENGELMANN:** It really was just simply a
23 convenience with respect to the reporting service.

24 The only issue that's really left for you is
25 whether or not the people who are here in the hearing room

1 should be able to hear this information or not.

2 **THE COMMISSIONER:** Yes.

3 **MR. ENGELMANN:** I think we're all agreed
4 that given the publication ban issues, at least for the --
5 for the exhibits that refer to monikers, clearly we can't
6 have that on the webcam.

7 I had assumed we were going to be playing
8 the -- if we get to the May 30th, '97 interview that we
9 would have played that over the web publicly, but ---

10 **THE COMMISSIONER:** May 30th, that's the
11 audio?

12 **MR. ENGELMANN:** That's the audio and
13 interview; that's Exhibit 571. I'm not sure if we can get
14 there if we do this chronologically, because that's one of
15 the last of the videotapes.

16 The videotape of the December 1st, '96
17 statement, which is Exhibit 568, has to be played with the
18 webcam off, giving monikers, as do Exhibits 572 and 573 and
19 574; the OPP statements beginning with the moniker issue.

20 I guess the only question for you is whether
21 or not people should be able to hear these here in the
22 hearing room.

23 **THE COMMISSIONER:** And your comments?

24 **MR. ENGELMANN:** I have mixed feelings, sir;
25 to be frank.

1 It's -- I mean there are publication bans
2 and obviously if people are here, they have to be made
3 aware that there are publication ban issues. There
4 certainly are some graphic details that we -- we don't
5 normally go to when asking questions. It's a balancing act
6 between the nature of a public inquiry and openness and
7 privacy concerns.

8 Sir, I don't really have a position. I --
9 it's really just a question of whether or not those people
10 in the hearing room should be able to hear these tapes or
11 not.

12 I would have thought that we would have
13 played the May 30th tape though, publicly, given how we've
14 tried to do things publicly whenever possible.

15 **THE COMMISSIONER:** Yeah, yeah.

16 Well, okay, the reality is that the people
17 that are here today, right now, are all parties that have
18 signed undertakings, have they not?

19 **MR. KOZLOFF:** I was just -- Great minds
20 think alike, Mr. Commissioner.

21 **THE COMMISSIONER:** Oh, I wouldn't want to be
22 likened to your mind, sir.

23 **(LAUGHTER/RIRES)**

24 **MR. KOZLOFF:** You wouldn't want to be lumped
25 in my ---

1 **THE COMMISSIONER:** No, only because you're
2 such a great -- great advocate that I would.

3 **MR. KOZLOFF:** No, I -- I was just speaking
4 to Mr. Lee about that, and he confirms there are people
5 here, for instance, the wife of a client who hasn't signed
6 an undertaking.

7 **THE COMMISSIONER:** Who has?

8 **MR. KOZLOFF:** Has not signed an undertaking.

9 **THE COMMISSIONER:** Okay.

10 Well, I want to proceed today, and that's
11 the -- that's the problem.

12 So why don't we do this --- Why don't we
13 listen to Mr. Engelmann some more.

14 **MR. ENGELMANN:** Can I just make a
15 suggestion, sir?

16 You have to -- if we're going to do this
17 chronologically -- and I don't think any counsel is taking
18 any issue with that -- we would be starting with Exhibit
19 571 -- I'm sorry, we would be starting with Exhibit 568,
20 which we're going to have to go off-camera --

21 **THE COMMISSIONER:** Yes.

22 **MR. ENGELMANN:** -- to do that, in any event,
23 so if you want to take a break. And we can set that up,
24 and we could start with that one.

25 **THE COMMISSIONER:** Well, but that doesn't

1 decide the issue of whether or not we ask the spouse of one
2 of the ---

3 **MR. ENGELMANN:** That's true.

4 **THE COMMISSIONER:** --- to get out.

5 So that's where I'm -- grappling right now.

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

7 Well if you want a few minutes to think
8 about that while we do this, you can do that, or ---

9 **THE COMMISSIONER:** No, no; I'll decide right
10 now.

11 **MR. ENGELMANN:** Fair enough.

12 **(LAUGHTER/RIRES)**

13 Then I leave it with you.

14 **THE COMMISSIONER:** Thank you.

15 **MR. ENGELMANN:** But I think that's where we
16 should start.

17 And I just wanted to make a brief comment
18 about that, as well, if I could.

19 I'm proposing that with -- 568, which is the
20 December 1st statement, that we -- have a hard copy
21 transcription that is now currently 568. That we make that
22 568A, and that the actual video, itself, be entered as
23 568B.

24 **THE COMMISSIONER:** All right.

25 **MR. ENGELMANN:** If that's satisfactory.

1 --- RULING BY THE COMMISSIONER/DÉCISION PAR LE COMMISSAIRE:

2 THE COMMISSIONER: Okay.

3 The problem here is this -- is that this
4 evidence is important, and I think it's crucial that we
5 keep things as open as possible.

6 I certainly understand Mr. Sherriff-Scott's
7 position and I also endorse it. There are some facts that
8 -- allegations of details of abuse that really are not
9 relevant, especially given the fact that we're in a flux as
10 to what is going to be denied and what is going to be
11 continued to be alleged.

12 So for today's purposes, it's obvious that
13 we will not be on the webcam.

14 Might I make this suggestion -- is that for
15 today's purposes here's my decision: either that the spouse
16 signs an undertaking, so she can stay; or I ask her to
17 leave for today's statement.

18 What I want to do -- and I want to be
19 innovative in this regard, because I think that we should
20 try to find a way to put it on the webcam next time we come
21 back. And I'm wondering if we can work out some -- some IT
22 wizardry where we can edit parts, in the same way that we
23 edit statements and that we just stop the thing and we get
24 that done.

25 And so I know that it's going to leave a

1 little bit of mystery here for the -- now until August, but
2 surely -- surely we can agree on what should be edited.
3 Not the names of people, unless they are under a
4 publication ban -- but what I would like to see, if we can
5 edit, is the allegations of abuse that are not relevant --
6 the details that we've all agreed on throughout this
7 Inquiry -- it really shouldn't work.

8 Does anybody have any objections to that?
9 Mr. Sherriff-Scott, would that satisfy your
10 needs?

11 **MR. SHERRIFF-SCOTT:** Yes, sir.

12 **THE COMMISSIONER:** Thank you.

13 Mr. Callaghan?

14 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. JOHN CALLAGHAN:

15 **MR. CALLAGHAN:** May I just make a caution
16 note.

17 I don't disagree with that, particularly the
18 undertaking, particularly as it relates to the only thing
19 that was going to be on the web, which is why I didn't
20 object at the time of the audio. But there are statements
21 in some of these other documents which were not going to be
22 broadcast on the web which are salacious and terribly mean,
23 if they're not true; and I think that we should have an
24 understanding beforehand -- and they haven't been talked
25 about by Mr. Leroux as to whether he's going to continue to

1 allege them -- before you take that next step.

2 In other words, before you ever get to a
3 point where you put it on the web -- because as
4 Mr. Engelmann said, they're very -- there's some very, very
5 nasty allegations against people which, if I understand the
6 evidence, he's no longer making but no one's put them to
7 them. And I think, as you cautionary noted to Mr.
8 Sherriff-Scott, he's already denounced a lot of the
9 allegations that have been made, and so we shouldn't worry
10 about them because they've been prefaced with a "never
11 happened".

12 There is some ambiguity on some of the
13 others, and I think before you ever go to that next step of
14 it being played on the web, which is what you're suggesting
15 on the innovation, that issue be addressed.

16 **THE COMMISSIONER:** Well, what do you mean?
17 Do you mean the details of the abuse?

18 **MR. CALLAGHAN:** Well, they're not -- they're
19 just allegations; they're details of abuse. They're just -
20 - he puts people in -- in positions that are very
21 embarrassing, if they aren't true, to the people who have
22 to listen to this on the web.

23 I think -- you'll have to see it, sir. I
24 think I'm just -- you'll have see it because he hasn't --
25 no one's put all these little vignettes he gives in these

1 stories to him and say, "This isn't true, this isn't true,
2 this isn't true." And if he does and he says they're not
3 true, that's a different issue; if he's continuing them, we
4 have to be very careful.

5 I think as you -- you know, as you've
6 syndicated with the victims -- you know, we don't want to
7 re-victimize them; but there are a lot of people whom he
8 alleges are perpetrators that are completely -- not
9 perpetrators -- but in positions where you wouldn't want it
10 said on the worldwide web.

11 **THE COMMISSIONER:** Well, wait a minute. The
12 worldwide web is just an extension of this courtroom --
13 this audience room, and so ---

14 **MR. CALLAGHAN:** It's one way to look at it,
15 but ---

16 **THE COMMISSIONER:** No, no.

17 **MR. CALLAGHAN:** No, but I think the
18 sensitivity of the situation is as Mr. Engelmann took
19 Mr. Leroux through it. His affidavits ended up going all
20 over the world. And they're still retrievable.

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

22 **MR. CALLAGHAN:** And they're still causing
23 harm to people who get those affidavits up.

24 We understand Mr. Leroux didn't -- never
25 knew they were there -- didn't know -- have that intention.

1 But we'd be compounding that problem if some of these
2 allegations got broadcast and the graphic details which
3 we've been very careful and Mr. -- we've been very careful.

4 **THE COMMISSIONER:** If it's only the graphic
5 details, we can take care of that.

6 **MR. CALLAGHAN:** That's what I am saying.
7 That's fine. If that's what your comment was about being
8 innovative. I agree with that.

9 **THE COMMISSIONER:** The graphic details, we
10 don't need to hear of unless someone makes a very good case
11 as to why we should hear them. That's what my position is
12 in.

13 **MR. CALLAGHAN:** Right and you're going to
14 hear them all in the context in what you're about to see,
15 and I think you should. Because that's what the nature of
16 the allegations -- all the questions that we have not been
17 asking are all asked on these videotapes; all asked. And I
18 think you should see them, as the Commissioner. Whether
19 they have to get re-broadcast at any great level is a whole
20 other issue. But you should see them and you need to see
21 them to do your mandate.

22 **THE COMMISSIONER:** Okay.

23 **MR. CALLAGHAN:** And it's the balancing that
24 you've been doing all the way along. And I know you
25 haven't seen them, so it's hard to have the discussion.

1 I'm just alerting you to it. That's why I have no problem
2 with what's being discussed here, because it's basically --
3 it's going to be in this room with respect to this --
4 beyond one person -- we're going to have an undertaking;
5 that's fine. I accept that. That was a very innovative
6 solution.

7 I'm just saying when you say about the next
8 step, I don't want to be taken that the next step isn't
9 going to have this kind of discussion, but I think you, as
10 the Commissioner -- it's the only you can decide is to see
11 this for yourself.

12 **THE COMMISSIONER:** Okay.

13 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. ALLAN MANSON:**

14 **MR. MANSON:** If I could just speak to the
15 innovation for a second Mr. Commissioner.

16 I understand what you want to do about
17 openness and I fully support that.

18 I think the answer may be to wait until the
19 cross-examination of the witness is finished, and then go
20 back and do the editing. Because at that point, it may be
21 clear that there are some things that are as -- Mr.
22 Callaghan put it salacious and being denied, in which case
23 they should come out.

24 **THE COMMISSIONER:** Okay.

25 And in any event, I don't want to see an

1 edited portion. I want to see it all.

2 **MR. MANSON:** Exactly.

3 **THE COMMISSIONER:** So if I am going to see
4 it all, it cannot go on the web cast right now, so -- so
5 much for innovation. Okay.

6 So, bottom line is for today, if we're all
7 agreed that if this lady wants to stay, she signs an
8 undertaking, otherwise for today we're in-camera or -- we
9 are really in-camera and then -- when we come back, because
10 we're not going to hear everything today ---

11 Mr. Engelmann, you know what? I think I'm
12 going to take your advice and ponder this over the break.

13 All right. So let's take a short break so -
14 - okay, what we're going to do now is we're going to listen
15 to the --

16 **MR. ENGELMANN:** December 1st, 1996.

17 **THE COMMISSIONER:** -- video which is a video
18 of this witness giving his statement to Constable Dunlop;
19 Perry Dunlop.

20 **MR. ENGELMANN:** Right.

21 **THE COMMISSIONER:** And that's going to last
22 an hour.

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

24 **THE COMMISSIONER:** Okay. So for members of
25 the public, we're going to go in-camera for this. I think

1 that's the only way of doing it, and then what I'm going to
2 decide is when we come back what we're going to do with the
3 other videos.

4 All right. Thank you.

5 So how long do we need Madam Clerk? Fifteen
6 (15) minutes? Thank you.

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

9 --- Upon recessing at 10:21 a.m. to resume in-camera/

10 L'audience est suspendue à 10h21 pour reprendre à huis-
11 clos

12 --- Upon resuming at 12:04 p.m./

13 L'audience est reprise à 12h04

14 **THE REGISTRAR:** The hearing is now resumed.
15 Please be seated. Veuillez vous asseoir.

16 **THE COMMISSIONER:** Thank you.

17 We're back on the webcast to inform the
18 public that we have finished viewing Mr. Leroux' audio and
19 videotaped interview with Perry Dunlop.

20 As well, I've indicated that I ruled that
21 when we come back on August 13th, which is a Monday, at two
22 o'clock, for the continuation of the cross-examination,
23 that any of the videotapes that we will be looking at will
24 not be on the webcast, but will be open for the public to
25 view here.

1 We will be broadcasting the audiotape
2 portion of a conversation between Perry Dunlop and the
3 witness, Mr. Leroux.

4 I've made that decision that it would be
5 open to the public here because in balancing the importance
6 of keeping matters as public as possible and as transparent
7 as possible, that it should be kept in open court with the
8 proviso that I will advise those in the audience of the
9 prohibition of -- publication bans and other bans that may
10 or may not affect different people.

11 Does that take care of it, Mr. Engelmann?

12 **MR. ENGELMANN:** Yes, and I believe we
13 anticipate Mr. Leroux' cross-examination going on the 14th
14 and possibly the 15th, as well.

15 **THE COMMISSIONER:** Yes, that's right. We've
16 set those three days aside for that.

17 What's August ---?

18 **MR. ENGELMANN:** August 13th is the Monday --

19 -

20 **THE COMMISSIONER:** Monday; so the 14th.

21 **MR. ENGELMANN:** The 14th and 15th; the
22 Tuesday, Wednesday.

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

24 **MR. ENGELMANN:** Thank you very much.

25 **THE COMMISSIONER:** Does that complete it,

1 then?

2 **MR. ENGELMANN:** Yes, that's it for the
3 summer recess; thank you.

4 **THE COMMISSIONER:** Thank you.

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

7 --- Upon adjourning at 12:06 p.m./

8 L'audience est ajournée à 12h06

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

I, Marc Demers a certified court reporter inthe 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, Marc Demers, 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.



Marc Demers, CVR-CM