

**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 35

Held at :

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

Monday, May 29, 2006

Tenue à:

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

Lundi, le 29 mai 2006

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Christine Morris	Commission Counsel
Ms. Louise Mongeon	Registrar
Mr. John E. Callaghan	Cornwall Police Service Board
Mr. Neil Kozloff Dect.Staff Sgt.Colin Groskopf Mr. Larry Fitzpatrick	Ontario Provincial Police
Mr. David Rose Mr. Mike Lawless	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Bennett	The Men's Project
M ^e André Ducasse Mr. David Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Giuseppe Cipriano	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
Mr. William Carroll	Ontario Provincial Police Association
Ms. Terry Saunders	Cornwall Standard Freeholder

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1 --- Upon commencing at 2:17 p.m./

2 L'audience débute à 14h17

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

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

8 Please be seated. Veuillez vous asseoir.

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

11 Good afternoon.

12 **MR. ENGELMANN:** Good afternoon, Mr.
13 Commissioner.

14 We have a motion scheduled for this
15 afternoon.

16 **THE COMMISSIONER:** Yes.

17 **MR. ENGELMANN:** And Mr. Scott is here to try
18 the motion for the Diocese.

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

20 **MR. ENGELMANN:** I think you've seen him here
21 before.

22 And we also have David Rose here for
23 Corrections this afternoon.

24 **THE COMMISSIONER:** Good afternoon.

25 **MR. ENGELMANN:** I'm just looking for other

1 new faces. I think everyone else is known to you, sir.

2 **THE COMMISSIONER:** Correct. Thank you.

3 **MR. ENGELMANN:** And counsel for the Diocese,
4 counsel for the CCR and counsel for The Men's Project have
5 been engaged in some discussions with respect to the
6 possible resolution of the motion.

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

8 **MR. ENGELMANN:** So perhaps I'll let Mr.
9 Scott address you on that. I have some other matters to
10 speak to you as well about.

11 **THE COMMISSIONER:** Thank you.

12 **MR. SCOTT:** Good afternoon, Mr.
13 Commissioner.

14 **THE COMMISSIONER:** Good afternoon.

15 **MR. SCOTT:** My name is David Scott and I am
16 standing in for David Sherriff-Scott who is in another
17 place.

18 **THE COMMISSIONER:** All right.

19 **MR. SCOTT:** We have a basic agreement as to
20 what to do here, subject to your discretion as to what is
21 appropriate, but we need to take a few moments to try and
22 write it out in the form of what might be a draft order.

23 **THE COMMISSIONER:** All right.

24 **MR. SCOTT:** Let me just read to you what --
25 the bare bones of what we've agreed to. And when I say

1 "we", I'm talking about Mr. Bennett, counsel for The Men's
2 Project, and Professor Manson, counsel for the Citizens for
3 Community Renewal, who are the people that are opposing,
4 and they say rather mildly, our Application.

5 So we would say that the consensus is that
6 subject to working out the language of an order, we have
7 agreement that the names that are referred to in our
8 Application will be removed from the six affidavits
9 referred to in the Application; that is, the affidavits on
10 the website that supported of the Applications for
11 Standing. And that, in addition, there will be a
12 publication ban in respect of the four names of the six not
13 hereto fore mentioned in other litigation.

14 The four names -- there are four names of
15 the six of persons who have not been charged and who are
16 not mentioned in any lawsuits and we would invite you to
17 issue, subject to further order of the Court, a publication
18 ban in respect of those names.

19 **THE COMMISSIONER:** That would be on an
20 interim basis, though, I understand?

21 **MR. SCOTT:** Yes. That's why I would say
22 "subject to further order of the Court" and it's just a
23 matter of trying to work out language that suits us. There
24 are a couple of issues.

25 So if we could have a few minutes, we might

1 try and do that?

2 **THE COMMISSIONER:** Certainly. Yes, thank
3 you, sir.

4 Mr. Lee, you're up.

5 **MR. LEE:** I apologize. I'm not really
6 involved in this. I think Mr. Scott have misspoken since I
7 don't want to go while the hearing is on and speak to him.
8 My understanding is that we are speaking of four
9 affidavits, six names in four affidavits?

10 **THE COMMISSIONER:** Well, the matter is not -
11 --

12 **MR. LEE:** Okay. I just want to be
13 absolutely certain that I wasn't out of the loop on this
14 one. Thank you.

15 **THE COMMISSIONER:** Very good, thank you.
16 Mr. Bennett?

17 **MR. BENNETT:** Good afternoon.

18 **THE COMMISSIONER:** Good afternoon.

19 **MR. BENNETT:** I just wanted to speak briefly
20 to this matter, given that it may be on a consent order,
21 just to put on the record what may appear to be a slight
22 change in The Men's Project's position.

23 **THE COMMISSIONER:** All right.

24 **MR. BENNETT:** Just so it is public.

25 Originally, when this matter came before and

1 we said we thought we weren't comfortable with it, there
2 were two reasons; one, that it appeared to be a private
3 deal and it wasn't being done as part of the public record
4 and that was our concern, but as we reflected upon what the
5 Diocese has been asking, quite frankly, we think it's fair.
6 The issue about timing that we raised before, I think we
7 have decided that fairness may override that. I want to
8 explain how we are looking at this.

9 In the Applications for Standing, at the
10 time no one knew what material would be filed. None of us
11 had access until it was filed.

12 **THE COMMISSIONER:** Until it was filed, yes.

13 **MR. BENNETT:** After it was filed, we all had
14 access to it and it would have been a lot easier if this
15 was brought a week later, two weeks later, one month, two
16 months; not six months later. That is a bit difficult. On
17 the other hand, we realize that the use of the Internet and
18 how this is working is very new for a lot of counsel.

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

20 **MR. BENNETT:** And a lot of us perhaps did
21 not have the same antenna up that we would be if we were
22 more familiar with this and we realized that there also has
23 not yet been a protocol established with how names might be
24 coming forward ---

25 **THE COMMISSIONER:** Right.

1 **MR. BENNETT:** --- in terms of when witnesses
2 are testifying and what they will be allowed to say. And
3 we realize that if it wasn't proper that someone be able to
4 name a name today without a proper safeguard, does it
5 really matter that it was months ago.

6 That's how we have come to our position that
7 we think probably in the interest of the credibility of --
8 not the credibility but the fact that the duty of this
9 Commission is to be fair to everyone, not only survivors
10 but also people who are alleged perpetrators of different
11 abuse or alleged perhaps -- people whose names are subject
12 to allegations of abuse -- sorry, that was the words I was
13 looking for.

14 **THE COMMISSIONER:** Yes.

15 **MR. BENNETT:** Names should be very well
16 safeguarded until there is a proper foundation for that.
17 That's why we've -- The Men's Project has looked at this
18 and thinking about the purpose of this inquiry is not to
19 get people; it is to find out what happened within the
20 various government and public institutions and how things
21 can be improved, and by putting names out there needlessly
22 may not get to that goal.

23 So I just wanted to put that on the record
24 given that it's slightly different than how we've been
25 putting it forward beforehand.

1 **THE COMMISSIONER:** Yes, thank you very much.

2 **MR. BENNETT:** Thank you.

3 **THE COMMISSIONER:** Mr. Manson.

4 **MR. MANSON:** I just want to say that I don't
5 intend to get into any of the substance of these issues
6 because that's -- if we can work out an agreement which, in
7 essence, is quite consistent with the proposal we made in
8 our factum, then we're content with that and one the
9 reasons to do that is so that we don't get into the
10 substance of these issues now ---

11 **THE COMMISSIONER:** Exactly.

12 **MR. MANSON:** --- because we anticipate
13 they'll arise later.

14 So I think if you give us a few minutes ---

15 **THE COMMISSIONER:** Sure.

16 **MR. MANSON:** --- we might be able to work
17 out wording. There may be one small issue that we have to
18 put to yourself for a decision whether it goes this way or
19 that way. But other than that, I think we're in agreement.

20 **THE COMMISSIONER:** No, I read all of the
21 material over on the weekend and it must have been when
22 Edmonton was winning because I read your material and I
23 thought it sounded like a good proposal, in any event. So
24 there you go.

25 **MR. MANSON:** Thank you.

1 **MR. ENGELMANN:** And I didn't mention that.

2 **THE COMMISSIONER:** No.

3 **MR. ENGELMANN:** I think maybe we could just
4 deal with a couple of other housekeeping matters before we
5 break because I'm not sure if other counsel will want to
6 stay.

7 **THE COMMISSIONER:** Right.

8 **MR. ENGELMANN:** So just so we're clear on
9 what is happening this week, we have three witnesses from
10 the Ontario Police College. Ruby Gheysen will be here
11 tomorrow -- that's Tuesday -- followed by Phil Debruyne on
12 Wednesday and followed by Irene Barath on Thursday.

13 **THE COMMISSIONER:** All right.

14 **MR. ENGELMANN:** So that's the order.
15 Disclosure has been sent to all counsel at least sometime
16 last week.

17 There is one other matter.

18 Mr. Cipriano had indicated that he'd be in a
19 position to speak further on the issue of judicial review
20 today. So perhaps I'll turn the mike over to him.

21 **THE COMMISSIONER:** Right, thank you.

22 Mr. Cipriano.

23 **MR. CIPRIANO:** Yes, good afternoon, Mr.
24 Commissioner.

25 **THE COMMISSIONER:** Good afternoon.

1 **MR. CIPRIANO:** On Thursday of last week, we
2 had faxed a letter to your counsel regarding our intention
3 to seek a review of the decision of May 1st.

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

5 **MR. CIPRIANO:** I was advised at that time
6 that, given the nature of our funding, the Commission would
7 not be in a position to fund any kind of review that we
8 would intend to seek. As a result of that, I had asked
9 Commission counsel whether it would be appropriate that I
10 bring an application for funding and I was advised that I
11 should do that and ask the Commission at what point that
12 application would be appropriate to be brought.

13 And so I'm here today asking -- it's my
14 position that the review would be part of the work of the
15 Commission and I would like to make an application to the
16 Commission for funding to bring that review.

17 **THE COMMISSIONER:** Okay. So what you're
18 telling me is you have received instructions to pursue a
19 review?

20 **MR. CIPRIANO:** I received those instructions
21 prior to the understanding that the Commission would not
22 fund the review.

23 **THE COMMISSIONER:** Well, first of all, I
24 don't know that there is any understanding that the
25 Commission in review will fund or not fund.

1 **MR. CIPRIANO:** I can just state my
2 understanding was, from the very beginning, that a review
3 was part and parcel of the work of the Inquiry. That was
4 my understanding from the very beginning.

5 Now, I could be corrected but I'm simply
6 stating that when we had written the letter for intention
7 to review the Order of May 1st, we had that in mind that
8 funding was also included to bring a review of that Order.
9 If not, if I'm wrong, I would like to apply for funding in
10 order to bring a review of that Order.

11 **THE COMMISSIONER:** Well, I think you better
12 apply for funding because I don't know that it's included
13 in the package deal, so to speak.

14 **MR. CIPRIANO:** No, and I understand, and
15 that was the position that was expressed to me by your
16 counsel.

17 **THE COMMISSIONER:** Right.

18 **MR. CIPRIANO:** I take an opposed view of
19 that ---

20 **THE COMMISSIONER:** Sure.

21 **MR. CIPRIANO:** --- given the interest that
22 I'm here to represent and what has gone on thus far.
23 However, I would like to make an application. I spoke to
24 Mr. Engelmann on Friday and there were some dates that were
25 being thrown around, and the date that seemed appropriate

1 for myself and the Commission is the date of June 6th.
2 That's also a date on which there is another motion going
3 on that day.

4 So if that's appropriate to yourself and to
5 the Commission, then I would be in a position to apply for
6 funding on that day.

7 **THE COMMISSIONER:** All right.

8 Let's hear from Mr. Engelmann.

9 **MR. ENGELMANN:** Just for clarity, my friend
10 and I had a discussion and I suggested that funding for the
11 Divisional Court may not be covered. I also suggested to
12 him that was my understanding from other inquiries. So he
13 does have a position. If he wants -- I assume if he wishes
14 to argue that position at the same time as asking for
15 funding, if he is wrong, in the alternative he could do so.
16 I said obviously those decisions were decisions of the
17 Commissioner.

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

19 **MR. ENGELMANN:** So just for the record, I
20 question whether it was part of it and where you would draw
21 the line, whether you would have funding for the Divisional
22 Court, the Court of Appeal, the Supreme Court of Canada,
23 what have you and, obviously, want to have this matter
24 heard expeditiously.

25 **THE COMMISSIONER:** Oh, yes.

1 **MR. ENGELMANN:** And preferably this week but
2 my understanding from Mr. Cipriano is he is not available
3 to argue either his point that funding is covered by his
4 original Standing and Funding Order or the alternative,
5 that he requires it. So I think Tuesday, June 6th was the
6 first date he advised me that he was available.

7 **THE COMMISSIONER:** All right.

8 **MR. ENGELMANN:** I don't know if that pleases
9 the Commissioner or not. I leave that with you.

10 **THE COMMISSIONER:** No, that's fine. But how
11 are we going to work out the -- so then your material, what
12 dates are we going to add and who is participating? I
13 don't know if the other parties wish to participate in
14 this.

15 **MR. ENGELMANN:** Well, perhaps what I could
16 is at least canvass those counsel that are here ---

17 **THE COMMISSIONER:** Right.

18 **MR. ENGELMANN:** --- to see if they wish to
19 participate and I can get a letter out today to everyone.

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

21 **MR. ENGELMANN:** Asking -- and I could speak
22 to Mr. Cipriano in the few minutes we have while other
23 counsel are working on a possible consent motion with
24 respect to a timeline so that we can make this work for
25 June 6th.

1 **THE COMMISSIONER:** Okay, because June 6th at
2 the latest. I don't want to ante this to be up any longer.

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

4 **THE COMMISSIONER:** And in fact, yes, I'll
5 expedite the decision in any event.

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

7 **THE COMMISSIONER:** So let's make sure we get
8 this done as quickly as possible.

9 **MR. ENGELMANN:** I'll speak to counsel in any
10 event.

11 **THE COMMISSIONER:** All right.
12 Anything else, Mr Engelmann?

13 **MR. ENGELMANN:** No, those were all the
14 housekeeping matters.

15 **THE COMMISSIONER:** So for the people in the
16 audience and those who may be listening, there was a motion
17 to be heard today on whether or not certain names should be
18 taken out of affidavits that are now on the Commission
19 website and it seems that after having reviewed the
20 submissions, there may be some room for curbing -- limiting
21 the argument and coming up with an agreement. And so the
22 lawyers will be looking at that and will come back and make
23 submissions to me as to what they consider a proper order
24 to be made.

25 Then, with respect to Mr. Cipriano, the idea

1 will be that we have to decide what date we'll be available
2 for him to argue that he is either funded -- his client is
3 funded or should be funded for an appeal of judicial review
4 to the Divisional Court.

5 And so we'll take a break until three
6 o'clock.

7 Madam Clerk, let me know if at 3:00 they
8 need a little more time but by 3:15, I'd like to come back
9 and deal with matters.

10 All right? Thank you.

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

13 The hearing will reconvene at 3:00 p.m.

14 --- Upon recessing at 2:31 p.m. /

15 L'audience est suspendue à 14h31

16 --- Upon resuming at 3:17 p.m. /

17 L'audience est reprise à 15h17

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

20 This hearing of the Cornwall Public Inquiry
21 is now in session.

22 Please be seated. Veuillez vous asseoir.

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

24 **SUBMISSION ON MOTION BY/REPRÉSENTATION SUR REQUÊTE PAR MR.**
25 **SCOTT:**

1 **MR. SCOTT:** Thank you, Mr. Commissioner for
2 your patience.

3 We have agreement on the text and we have
4 just one small point that we'd ask you to make, exercise
5 your discretion on. Let me just read this and then I'll
6 hand it up to you. And, forgive me, this is my
7 handwriting.

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

9 **MR. SCOTT:** This would be headed "Interim
10 Order", an "Interim Order of the Commission":

11 "Subject to further order of this
12 Commission, it is ordered that the
13 names of the six persons associated
14 with the Diocese, referred to in
15 paragraphs 1A, 1B, 1C and 1D of the
16 within Application, shall be removed
17 from the affidavits posted on the
18 Commission website and the affidavits
19 referred to shall not be published
20 hereafter with the names contained
21 therein. And further that, with the
22 exception of the names of Bishop
23 Laroque and Father Lussier who have
24 been sued in the civil courts, there
25 shall be a publication ban applicable

1 to the publication of the names of the
2 four remaining individuals referred to
3 in the said affidavits."

4 So that's the proposed order and there's
5 agreement on it. The only subject that is outstanding is
6 whether there should be something placed on your website to
7 replace what is removed. Professor Manson in his material,
8 you will recall, suggested language:

9 "A portion of this Affidavit has been
10 removed from the website at the request
11 of the (name party ...) on the ground
12 that it contained an unproven
13 allegation which implicated an
14 individual's right to be presumed
15 innocent. This material is available
16 at the Commission office upon specific
17 request."

18 We are asking you to consider whether it is
19 productive to insert the name of the Diocese in the website
20 as the Applicant.

21 In my submission, if you see fit to issue
22 this order, apart for any other reasons, it will be because
23 it is the fair and right thing to do at this precise moment
24 in the continuum of your inquiry. I would simply say that
25 I don't think it advances anything in the community to lay

1 it at the feet of the Diocese, if it's the right thing to
2 do. But I leave that to you to decide, sir.

3 **THE COMMISSIONER:** Thank you. Thank you,
4 sir.

5 **MR. SCOTT:** Could I hand up that text?

6 **THE COMMISSIONER:** Yes.

7 All right, any further comments at this
8 point?

9 Mr. Manson.

10 **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANSON:**

11 **MR. MANSON:** For the reasons in our written
12 material, we agreed that at this point, without an
13 evidentiary context, the fair thing to do is to remove
14 these references.

15 However, and I made this argument with
16 respect to Mr. Cipriano's motion, this is material that has
17 been filed and considered, perhaps, for the purpose of
18 orders that have already been made with respect to standing
19 and funding. We're content because of the potential misuse
20 of websites and our lack of experience with websites, that
21 they be removed from that source; of course, not removed
22 from material specifically available from the Commission
23 office, but as well, subject to the limited publication ban
24 that Mr. Scott mentioned.

25 However, there's going to be a void on the

1 redacted affidavits, and in order to promote frankness and
2 transparency for anyone who has any interest in the orders
3 you made for standing and funding, it seems to us instead
4 of a black hole there ought to be a note. And, as a
5 result, I think the order should include, as well as those
6 two paragraphs, a third paragraph that says something like,

7 "Where this material has been removed
8 from the Affidavits on the website, the
9 following notice shall be inserted:"

10 And I would give it this specific wording:

11 "A portion of this Affidavit has been
12 removed from the website at the request
13 of the Episcopal Corporation of
14 Alexandria-Cornwall on the ground that
15 it contained an unproven allegation
16 which implicated an individual's right
17 to be presumed innocent. The original
18 Affidavit, as well as the order for
19 redaction and the order prohibiting
20 further publication, are available at
21 the Commission's office upon specific
22 request".

23 It seems to me that that kind of notice
24 promotes frankness, promotes transparency, and doesn't
25 carry the implications that Mr. Scott may have suggested.

1 It's simply a reflection of exactly what has taken place.

2 Those are my submissions, Mr. Commissioner.

3 I can write that out. It's a slight
4 variation in what we had in our factum because I
5 included the reference to the order and the
6 prohibition, but it seems to me that the
7 Commission ought to follow the Canadian
8 transition that we usually don't strike things
9 from the record.

10 And, if we're going to do that -- by "from
11 the record", I mean something that's already been filed and
12 considered. If we're going to do that, there ought to be
13 something to go in its place, an explanation, without
14 anymore detail. I'm not suggesting anything more than what
15 I've just read.

16 Thank you, Mr. Commissioner.

17 **THE COMMISSIONER:** All right.

18 Any one else? Mr. Lee.

19 **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. LEE:**

20 **MR. LEE:** I simply wanted to let you know
21 that I've reviewed the wording of the order and I have no
22 problems with it at all and I'm not going to take any
23 position on whether or not A notice should go on the
24 website or not. I'll leave that to you.

25 Thank you.

1 **THE COMMISSIONER:** All right, thank you.

2 I don't think there is opposition to the
3 notice going on the website. Mr. Scott's argument is that
4 he just doesn't want the Diocese's name.

5 **MR. LEE:** Right, exactly. I have no problem
6 with the notice going on and I'll leave it up to you
7 whether or not the Diocese should be included in that or
8 not.

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

10 Mr. Bennett?

11 **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. BENNETT:**

12 **MR. BENNETT:** Mr. Commissioner, just with
13 respect to what goes on the website I have a possible
14 suggestion where it just says:

15 "A portion of this Affidavit has been
16 removed from this website pursuant to
17 an Order of Commissioner Glaude on..."
18 -- whatever day and with even possibly a link if people --
19 given that the websites can do that.

20 But, people can then go -- anybody who has
21 that keen interest can go back and look to see what the
22 motion was about, if they're interested.

23 I just referred to the ---

24 **THE COMMISSIONER:** Right.

25 **MR. BENNETT:** Thank you.

1 **THE COMMISSIONER:** That's a good idea.

2 I hope Mr. Cipriano has ---

3 **MR. ENGELMANN:** Yes, and I think after Mr.
4 Cipriano unless -- there may be other counsel as well. I
5 just wanted to inform the Commissioner that Ms. Saunders
6 from the *Standard Freeholder* would like to make a brief
7 submission as well.

8 **THE COMMISSIONER:** Yes, certainly.

9 Mr. Cipriano, did you take a position in
10 this motion?

11 **MR. CIPRIANO:** I did but I think ---

12 **THE COMMISSIONER:** You did or did not?

13 **MR. CIPRIANO:** I did. I'll let other
14 counsel finish before I speak.

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

16 **MR. CIPRIANO:** I wasn't involved in the
17 Consent Order.

18 **MR. MANSON:** If I could reply to Mr. Bennett
19 very briefly?

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

21 **MR. MANSON:** I think there's a difference
22 between saying "pursuant to the Order" and saying
23 "at the request of the Diocese".

24 "Pursuant to the Order" certainly gives the
25 impression that you initiated the concern as

1 compared to "the Diocese".

2 **THE COMMISSIONER:** "Pursuant to an Order
3 granted by the Commission on application by the Diocese", I
4 mean doesn't it -- you see, the way it's written now, it
5 doesn't have the stamp of approval of the Commission.

6 **MR. MANSON:** Yes.

7 **THE COMMISSIONER:** And so I think it should
8 be put in there that, regardless of what everybody else
9 could have thought, I've come to a decision and this is
10 what I've done and I think that's fair.

11 **MR. MANSON:** Those two phrases juxtaposed, I
12 think, is completely accurate.

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

14 **MR. MANSON:** Thank you, Mr. Commissioner.

15 **THE COMMISSIONER:** And, because in the end,
16 not only have I ordered it, it's been on consent of all the
17 parties involved.

18 **MR. MANSON:** Yes.

19 **THE COMMISSIONER:** So I don't know that
20 there's that much there.

21 All right, anyone else?

22 Mr. Cipriano.

23 **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. CIPRIANO:**

24 **THE COMMISSIONER:** So refresh my memory a
25 little bit. You had participated in this motion?

1 **MR. CIPRIANO:** I did. I filed some
2 materials in support of the Application brought by the
3 Diocese.

4 **THE COMMISSIONER:** Right.

5 **MR. CIPRIANO:** And I just wanted to put my
6 concerns on the record. I have no problem with the consent
7 that's being proposed. The only thing I wanted to put on
8 the record was I find this motion and the motion I brought
9 earlier to be very similar in the sense that we're seeking
10 the same -- we're seeking, really, the same orders in that
11 certain names be removed because of the presumption of
12 innocence, especially when people whose names are on the
13 affidavits have current outstanding litigation. And so ---

14 **THE COMMISSIONER:** Are you rearguing your
15 motion? What's the purpose of you talking to me right now?

16 **MR. CIPRIANO:** I'm talking in support of the
17 consent that's being filed with the Commission right now.

18 **THE COMMISSIONER:** Okay.

19 **MR. CIPRIANO:** And I'm the -- what I'm
20 saying to the Commission is I see no difference between the
21 consent that's being issued and the motion that I had
22 brought.

23 **THE COMMISSIONER:** What relevance does that
24 have today? Because we're not talking about your motion
25 today, are we?

1 **MR. CIPRIANO:** No, but what I'm saying is
2 there are certain reasons why certainly -- why there's been
3 a consent to do something today and I would suggest that
4 that's no different from the application that I had brought
5 in the sense that the same interests are at stake. Whether
6 the person has been charged or simply investigated, it's my
7 submission that the same interests are at stake.

8 **THE COMMISSIONER:** Okay, fine.

9 **MR. CIPRIANO:** And, I would not distinguish
10 between the two motions.

11 **THE COMMISSIONER:** Okay. Well, just so you
12 know, I am distinguishing. I don't think that
13 it's fair to be blending both motions together.

14 This motion is quite separate and apart from
15 yours and I think I take the view that the relief
16 that you sought and the reasons for it are
17 completely different in what the Diocese has
18 asked.

19 **MR. CIRPIANO:** Well, if I can ---

20 **THE COMMISSIONER:** But no, no, we don't have
21 to argue this today.

22 **MR. CIPRIANO:** Well, I did take a position
23 on the motion.

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

25 **MR. CIPRIANO:** And I would like to express

1 my position.

2 **THE COMMISSIONER:** Go ahead.

3 **MR. CIPRIANO:** My position is that the
4 relief sought and the reasons sought for it are the same in
5 the sense that the issue of presumption of innocence and
6 fairness was being put forth, and that's the same position
7 I put forth. And so if one reads the materials, the issue
8 of presumption of innocence does come out and I don't see
9 how that's distinguishing between the motion I brought
10 earlier.

11 Both of them deal with the interests of the
12 person mentioned in the affidavit. Some of them have
13 outstanding litigation, as does my client, and so the
14 interests at stake are the same. I don't see a
15 distinguishing feature between the two motions.

16 **THE COMMISSIONER:** Thank you.

17 Anything else? Sir, are you finished? That
18 was it?

19 **MR. CIPRIANO:** Yes.

20 **THE COMMISSIONER:** Thank you.

21 Mr. Engelmann.

22 **MR. ENGELMANN:** I have nothing to add, since
23 there's a minor decision to make at least given the
24 arguments before you. However, there is, as I said, a
25 submission from the media outlet, the *Standard Freeholder*.

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

2 **MR. ENGELMANN:** So if Ms. Saunders could
3 please come forward?

4 **THE COMMISSIONER:** Ms. Saunders, could you
5 come forward, please?

6 **SUBMISSIONS BY/REPRÉSENTATIONS PAR MS. SAUNDERS:**

7 **MS. SAUNDERS:** Thank you, Mr. Commissioner.
8 My name is Terry Saunders and I'm a reporter
9 at the *Standard Freeholder* newspaper here in Cornwall.

10 I just wanted to speak to this particular
11 issue briefly. Publication bans are very extreme measures
12 to put in place when you're talking about the protection of
13 information. These names have been public for several
14 months on the Commission's website already. They have been
15 in the public realm, some of them for several years.

16 To put a ban on them now without fully
17 understanding the implication of that ban would be contrary
18 to what we believe is the mandate of the Commission.

19 This Inquiry has been and must continue to
20 be open and transparent. This is not a criminal court, but
21 rather a public hearing aimed at getting to the bottom of
22 what has been a dark chapter in our community. Putting any
23 sort of publication ban in place without an understanding
24 of how it will impact not only the Commission's ability to
25 hear open and honest evidence, but the media's ability to

1 accurately, fairly and completely report its contents would
2 be in contrast to the Inquiry's mandate.

3 We believe that the purpose of this inquiry
4 at the end of the day is to promote healing and
5 reconciliation. Any publication ban would serve the
6 opposite purpose and perhaps cast a cloud of secrecy once
7 again over this affair.

8 Thank you.

9 **THE COMMISSIONER:** Thank you.

10 **RULING ON MOTION #4 / DÉCISION SUR REQUÊTE #4 :**

11 **THE COMMISSIONER:** Okay, let me begin by
12 saying that I will grant this order on an interim basis,
13 upon the terms as set out in Mr. Scott's dissertation, well
14 written in any event.

15 So what it will be will be that,

16 "Subject to further order of this
17 Commission, it is ordered that the
18 names of the six persons associated
19 with the Diocese, referred to in
20 paragraphs 1A, 1B, 1C and 1D of the
21 within Application, shall be removed
22 from the Affidavits posted on the
23 Commission website. Any Affidavits
24 referred to shall not be published
25 hereinafter with the names contained

1 herein. And further, that with the
2 exception of the names of Bishop
3 Laroque and Father Lussier who have
4 been sued in the civil courts, there
5 shall be a publication ban applicable
6 to the publication of the names of the
7 four remaining individuals referred to
8 in the said Affidavits."

9 As well, as part of the redaction that will
10 be made as soon as possible on the Commission website, it
11 will read,

12 "Upon order of the Commission dated
13 [today's date], a portion of this
14 Affidavit has been ordered removed from
15 the website at the request of the
16 formal name of the Episcopal
17 Corporation of Alexandria-Cornwall who
18 sought removal and the consent of all
19 the parties..."

20 -- and that would include the CCR -- who else consented?
21 Mr. Lee for the Victims Group, Mr. Bennett and Mr.
22 Cipriano.

23 Is that correct, Mr. Cipriano?

24 **MR. CIPRIANO:** Yes.

25 **THE COMMISSIONER:** All right.

1 "...those parties having had expressed
2 an interest in this matter, on the
3 ground that it contained an unproven
4 allegation which implicated an
5 individual's right to be presumed
6 innocent. This material is available
7 at the Commission's office upon
8 specific request."

9 Mr. Manson, was there anything I missed in
10 there? I think what you said to me was not exactly the
11 same as what's in your motion.

12 **MR. MANSON:** That's, right. I think you
13 caught all the essential elements, Mr. Commissioner.

14 **THE COMMISSIONER:** All right.

15 **MR. MANSON:** I wouldn't ---

16 **THE COMMISSIONER:** Okay. Well, the
17 important thing, I think, in all of this is to underline
18 the reasons why I'm doing this.

19 First of all, with respect to the
20 newspaper's submissions, the *Freeholder*, I am quite mindful
21 of the fact that any ban on publication is a serious
22 matter. I can tell you that's why I've done it on an
23 interim basis, which means for the time being. And that
24 will permit anyone from the -- affected by this publication
25 ban to get legal advice and to decide whether or not they

1 wish to bring this matter forward.

2 But more importantly -- no, as importantly,
3 I believe that Mr. Manson caught the reasoning that would
4 apply for this in his submissions, in that it's premature
5 to make a ruling on issues like this outside the
6 evidentiary context.

7 I think that once we get into the matters,
8 the substantive matters, that we should be in a position to
9 properly deal with this issue. At this point, I think it
10 is premature and it is speculative to deal with matters of
11 presumption -- well, not the rulings but to deal with these
12 matters in a vacuum.

13 As well, I find that this ruling should not
14 in any way bind this Commission with respect to any further
15 rulings when we're dealing with the substantive matter. We
16 have to recall that the affidavits filed in the Standing
17 for Hearing were for a limited purpose and a very limited
18 purpose indeed.

19 They have served their purpose for the time
20 being and it is for us to revisit issues of rights to
21 privacy as the substantive hearing unfolds. Accordingly,
22 those are the reasons why I have decided to rule in the
23 manner that I did. All right?

24 Thank you.

25 Any questions arising out of that or out of

1 the wording?

2 So bottom line is I think that we will hear
3 a lot more in the substantive hearings and that will give
4 us an opportunity to decide what relevance there would be
5 to those affidavits, if any, in the substantive hearing.

6 With respect to Mr. Cipriano's comments, I
7 have indicated that I have heard all of the evidence and
8 arguments with respect to that matter and that ruling is
9 forthcoming.

10 All right? Is there anything else we can do
11 today?

12 **MR. ENGELMANN:** No, Mr. Commissioner. The
13 next witness is ready to go first thing in the morning.

14 **THE COMMISSIONER:** Pardon me?

15 **MR. ENGELMANN:** The next witness will be
16 ready to go first thing in the morning.

17 **THE COMMISSIONER:** All right.

18 I should advise counsel as well that near
19 the end of this week, I will be giving some kind of an
20 outline as to where we're going with respect to the month
21 of June, July and August, and perhaps a few thoughts as to
22 what I see the evidence going in my plans for getting the
23 Commission to continue its work and an idea for the public
24 as to where -- what kind of evidence we'll be hearing in
25 the months to come. All right.

1 Mr. Engelmann will advise you as to whether
2 or not that would be Wednesday or Thursday.

3 Thank you. We'll see you tomorrow morning
4 at 10 o'clock.

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

7 This hearing is adjourned. L'audience est
8 ajournée.

9 --- Upon adjourning at 3:38 p.m. /

10 L'audience est ajournée à 15h38

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

I, Marc Demers 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, 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