

**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	Ontario Provincial Police
Dect.Staff Sgt.Colin Groskopf	
Mr. Larry Fitzpatrick	
Mr. David Rose	Ontario Ministry of Community
Mr. Mike Lawless	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 <sup>e</sup> André Ducasse	Diocese of Alexandria-Cornwall
Mr. David Scott	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 1<sup>st</sup>.

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 1<sup>st</sup>, 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 6<sup>th</sup>.  
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 6<sup>th</sup> 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 6<sup>th</sup>.

1                   **THE COMMISSIONER:** Okay, because June 6<sup>th</sup> 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