

# **APPLICATION FOR SPECIAL STANDING AND FUNDING**

## **CORNWALL PUBLIC INQUIRY**

July 5, 2006

The following is application for standing and funding, including my attached letter giving notice of my intent dated June 19, 2006 . I note that the date of July 24, 2006 has been scheduled to hear the reasons for my application. I also note that I will be providing three exhibits, consisting of twenty pages, prior to Hearing. These Exhibits will contain a summary of my communications with the Commission, the local MPP , and the Standard-Freeholder. My presentation at time of Hearing will be approximately five pages in length, a copy of which will be provided at conclusion of Hearing.

In order to assist the Judge in his consideration, I will provide an advance copy of my presentation for his perusal, hopefully at least one week prior to Hearing. If in the Judge's discretion, he need not hear my presentation orally, accept in its acceptance, I am willing to agree to the Commission making copies for the press and other parties prior to the Hearing, so that the Hearing may be expedited, and I would, other than a few comments, answer questions of the Judge and other parties only. This provision may facilitate the Judge in making an early ruling upon my request.

### **PREAMBLE**

Whereas I sought the reasons for the funding of the Diocese of Alexandria on December 8, 2005, including numerous follow-up communications with the Commission, with copies to the local MPP, and Cornwall Standard-Freeholder, and

Whereas I found, as a result of those communications with the Commission, that no reasons were given by the Judge for funding of the Diocese, both at Hearing of December 6, 2005, and in his recommendation to the Attorney General of December 12, 2005, and in my own research, to the best of my knowledge, no reasons were given for the funding of the other parties, and

Whereas the Judge has stated that he was open to external review or appeal of his rulings, and

Whereas I sought to seek answers to my concerns privately and failed , and

Whereas I now regret that I feel compelled to seek answers to my concerns publicly,

I do now hereby apply for standing and funding in order to seek a remedy for my concerns.

### **SUBSTANTIAL AND DIRECT INTEREST FOR STANDING**

The purpose of my substantial and direct interest is to provide constructive comments on the operation of the Inquiry, in applying the test for funding.  
The test for granting of funding. is from para 59 of Commissioner's Rules and Item #10 of Order of Council. I quote:

**"where in the Commission's view the party would not be otherwise able to participate in the Inquiry without such funding"**

It is noted that although my concern is general, and related to this test for funding for all parties requesting funding, my evidence will be specifically related to the Diocese. I have no objection to the funding of the Diocese. My objection is that such funding to the Diocese, as well as other parties, has been granted, without reasons. The following are my substantial and direct interests:

a. to ensure, as the test for funding, by definition requires evidence or reasons, recognizing that in the instances of individuals or parties, including few members, that the reasons may be self-evident, and meeting the test require no reasons, that the funding of the Diocese, and all other parties, which directly impacts financially on me, and other citizens of the province of Ontario, is with few exceptions, as described, be supported by the evidence or reasons

b. to ensure that the concepts of transparency and accountability are met by the Judge in the disclosure of his reasons for funding of the Diocese, and all the other parties

c. to provide information as to how the existing government test for funding, without an appropriate and practical measuring stick, has placed the Judge in an untenable position in making his determinations on funding

d. to provide advice to the Judge and Commission staff, and the public at large, on how the existing test may be amended to secure greater fairness, transparency and accountability in its application in future Inquiries

### **APPLICATION FOR FUNDING**

1. As a retired private citizen, presumptively acting on behalf of the public at large, as I would have limited resources in pursuit of my remedy, I may need to seek funding assistance

2. I have only made one contact of the parties, where I registered my concern, and who has advised that in his role, he was not in a position to comment on Commissioner's rulings.

3. Funds would be required to hire a lawyer, and any other person ,that may be required, if I should decide to pursue an appeal of the Judge's ruling on granting funding to the Diocese, or any of the other parties, without reasons

4. I will contribute my own funds to the extent that all other private individuals have committed,

as their resources may have determined, noting that the Attorney General, through the local MPP, failed to act on my recommendation, that he review the recommendation of Judge Glaude for funding of the Diocese, without reasons, and must accept some responsibility for accepting the Judge's recommendation for funding, without reasons, and therefore should shoulder my full financial burden in seeking justice.

5. I would personally administer the funds, with appropriate documentation, including separate account, or if unsatisfactory , engage my accountant to so act.

## **EVIDENCE IN SUPPORT OF APPLICATION FOR STANDING AND FUNDING**

I note that I am acting alone, as a private citizen, without counsel, presumptively on behalf of the people of Ontario. I make my application to-day, knowing that the majority of the public will not understand the reasons for my concern, those who do, may not care, and those who do care, may be unable, as I, to cause you, the Commission, or the government to be accountable.

I further note, that as of this date, the Commission has not responded to my letter of July 4, 2006 last, requesting true, full, and complete copies of all recommendations by you, approving funding for the various parties. From December 8, 2005 until March 13, 2006, I sought to resolve my concerns privately. I am here to-day, not because of my desire to damage the credibility of you, the Commission, or others. In my letter to Peter Engleman dated June 28, 2006, which in itself, may not have been a solution, but at the worst, it suggested an option to protect the interests of the Inquiry. I quote in part:

**“As in my opinion my arguments will be extremely damaging and devastating to the Judge, Commission counsel, the Standard Freeholder and Government, I am open to some means that would avoid this damage, balancing the public’s right to know, with the protection of the reputation of the individuals and ,or parties.”** (Exhibit A- Item #19)

Your Honor, if you had even provided the flimsiest of evidence for your funding recommendations, and in particular for the Diocese, and not created the impression that it might have been Roman Catholic canon law, that you relied upon in making your recommendation for funding the Diocese, I would not be here to-day.

First of all I want to commend you for your openness in considering my request, which will go a long way in remedying any criticisms I may have of your performance. The whole purpose of my presentation, although I note the various deficiencies of individuals and parties, is to be constructive in my comments. The fact that you are open to appeal of your rulings, is that you, as well as I, are interested in justice, wherever it may bring us. I recognize, that in proceeding, there will be some, who will believe that I have great courage in challenging your failure to give reasons for funding of the Diocese, and other parties, but there will be others, who will question my judgement in doing so. How dare I challenge you, and in particular, the funding of the Diocese? I want to say at the outset, that I have no problem with funding of the Diocese. My problem is that you gave no reasons for funding the Diocese, or other parties.

Having failed to resolve my concerns privately, Your Honor, I will immediately begin by outlining the thrust of my application for standing and funding. My concerns may be summarized into seven major areas-your failure to fulfill one of the mandates of the Inquiry, in being transparent and accountable, when you, to the best of my knowledge, violated that mandate, by not providing reasons for your funding recommendations, and in particular for the Diocese; Commission counsel’s failure to advise me that you gave no reasons in your

recommendation to the Attorney General on December 12, 2005, four days after I sought your reasons for your recommendations, and I only found out on March 7, 2006 , after requesting a copy of your recommendation, that you gave no reasons in your recommendation on December 12, 2005; the Diocese's legal counsel's use of Roman Catholic canon law as a means to argue it was unable to fully participate in the Inquiry without public funding, and your comments on that law; the Attorney General's acceptance of your recommendations for funding of December 12, 2005, when you gave no reasons; the failure of you to reconsider your decision, including seeking the advice of the Attorney General, or other learned officials in my request of January 3, 2006 ; the failure of the Attorney General, in my request of January 21, 2006, to heed my request to withhold approval of your recommendation, until my concerns were addressed, and finally although not germane to my request for standing and funding, the failure of the Standard Freeholder, as a guardian of the public interest, to show interest in my concerns, or acknowledge receipt of those concerns.

## **TRANSPARENCY AND ACCOUNTABILITY**

The thrust of my application can be summed up in two words- transparency and accountability. Transparency means that the public receives full disclosure of your reasons for a decision. Accountability means that you agree to serve the public interest faithfully, and that you accept responsibility for your actions, including willingness to the admission of error, and the correction of such error to the benefit of the aggrieved. Unfortunately, Your Honor, to the best of my knowledge, in your admonitions for the need to be transparent and accountable, you, yourself, were not transparent or accountable by your failure to provide reasons for your recommendation for the funding of any of the parties, but in particular the Diocese.

More specifically I will review the test for funding of the various parties, what is required by definition of the test, the problem in meeting the requirements of the test, Your Honor's failure to apply the test, disclose your reasons for granting funding, and finally my recommendations and comments on a test that would more adequately solve all the problems, that you as Judge faced in making your decisions, that may have avoided your failure, notwithstanding your discretion, to adequately apply the test.

I say all that, Your Honor, recognizing that it was the government that imposed upon you that test, which created the root problem for you in its administration. I am not here to blame you or the government, but to illustrate those problems, and unfortunately how the test creates certain expectations, and how you may have failed to meet my expectation in your failure in my view to apply the test and provide reasons for your funding decisions,.

## **HISTORY**

I will first begin with a short history of why I am here to-day. I will then use my questions regarding the funding of the Diocese as an example to illustrate my problems with the current test for funding, but these same problems apply to all parties who applied for funding. I note that as a reference to my presentation to-day are copies of all communications to and from the

Commission , the local MPP, Jim Brownell, and Terri Saunders of the Standard-Freeholder. These communications are included in my Exhibits A, B and C. Some of this information will be repetitive in Exhibits B and C, as it was my purpose to provide both the local MPP and Standard Freeholder the progress I was making in seeking answers from the Commission to my concerns, in the event, that I needed to go public. Originals are available upon request.

Following is that short history. In early December I saw a newspaper article in the local paper that you had granted finding to the Diocese. I found this surprising for two reasons. First, the government does not usually provide funding for the accused, or any specific religion, except as provided for by the Constitution, and even that fact is not sacred for reasons I need not address. As a consequence on December 8, 2005, in a letter to Peter Engleman, I sought privately to seek the reasons for your funding of the Diocese. I quote in part:

**As a matter of the public record, in the interests of justice, I request the basis of the law, and or precedent judgements, that support the Judge's action.** (Exhibit A, Item #1)

On December 23, 2005, as I received no response from Mr. Engleman, I telephoned the Commission and spoke to Mr. Dumais , who advised me that I could find my answers on the commission website. After reviewing the Commission's website (Exhibit A- Item #4 and 5), I found no reasons, as to why you granted funding to the Diocese. However, I was particularly troubled by the fact that Mr. Sheriff-Scott, on behalf of the Diocese, used Roman Catholic canon law, as a reason to shift the expense of the Diocese to the public purse, and your comments on that canon law. I quote, in part:

***“ it is clear that conventional wisdom gives way to a new reality, one, which I for one, was clearly in the dark” and “all of this is to demonstrate that this Inquiry is not about conventional wisdom, but the facts”.***

By these comments you created the impression that you may have used Mr. Sheriff-Scott's argument to justify your recommendation. If so, such a reason would go to the heart of your credibility ( Hearing of December 6, 2005, page 28, lines 1-12). I was shocked by both Mr. Sheriff-Scott's argument and your response. This fact may have been the key motivation, as to why I have persisted in seeking answers to your non-disclosure of your reasons to fund the Diocese. I will speak to that matter later in my presentation.

As a result, I advised Pierre Dumais on January 3and 5, 2006, that my review of the Commission's website had not solved my concerns, and requested that he request that your Honor reconsider your decision, and consult with the Attorney General, or other learned officials. I quote:

***“I prefer that my concern be a private matter between the Commission, the Judge and myself. I, however, request the Judge to reconsider his decision, including seeking the advice of the Attorney General, or other learned officials.”*** (Exhibit A- Item #4, point 4 at bottom, and Item #5).

On January 11, 2006, Pierre Dumais replies by email, as follows to my letter of January 5, 2006 . I quote:

**“Dear sir, I have reviewed your correspondence dated January 5th, 2006, received at our office on January 9th, 2006 and wish to thank you for your continued interest in the Inquiry. As indicated in my last conversation with you I believe that all of the answers to your questions can be found on our Website in the Submissions of counsel and accompanying documents as well as in the transcripts in the Commissioner's questions for the Party and his subsequent decision. I do not know what else to add. The relevant case law was submitted and considered by the Commissioner and he decided that this particular party satisfied the test to receive funding. Please give me a call or make an appointment to meet me at our office, at the address indicated below, if you wish to discuss the matter further. Pierre R. Dumais”**(Exhibit A- Item #6)On January 15, 2006, I forwarded the following response to Pierre Dumais’s email of January 11, 2006,. I quote in part:

**On December 23<sup>rd</sup> last you telephoned me advising that I would find answers to my concerns and questions, as outlined in my letters of December 8<sup>th</sup> and 9<sup>th</sup>, 2005, on the Commission’s website. On January 3<sup>rd</sup> and 5<sup>th</sup> I responded that I did not find any answers on the Commission website to address or satisfy my concerns, or answer my questions of December 8<sup>th</sup> and 9<sup>th</sup>, 2005.**

**In your email of January 11, 2006, rather than answer my concerns and questions, instead again request that I look at the same Commission website to find the answers to my same questions and concerns. (Exhibit A- Item # 7)**

I further expressed my disbelief, in the lack of evidence, and that Your Honor, in your comments, may have given the impression that you may have used Roman Catholic canon law as one factor in your decision.

On January 16, 2006, I receive a reply by Pierre Dumais to my letter of January 15, 2006: I quote in part:

**With respect to the financial records, my recollection is that they were filed with the Commission as an exhibit to the Diocese's submissions. I would be pleased to meet with you if you wish to discuss the matter further. Pierre (Exhibit A- Item # 8)**

On January 21<sup>st</sup> , 2006 I request through Jim Brownell, MPP, that the Attorney General take following action, as you gave no reasons as to why you granted funding to the Diocese . I quote in party:

**“The Judge makes recommendations to the Attorney General for funding. I am requesting that the Attorney General withhold funding until such time as I receive a satisfactory response to my questions and concerns, as outlined in my response to Pierre Dumais of January 15th, last. I regret that I feel that I need to pursue this matter further, but I believe most reasonable persons would also share my same concern of the actions of the Judge in the matter. ”. (Exhibit B- Item #4 )**

I, not receiving reasons for your funding of the Diocese, and the Attorney General not acting on my request to withhold funding, requested on February 1, 2006 that my objection to the funding of the Diocese, be tabled on the public record (Exhibit A- Item #10). On February 15, 2006, not receiving a response to my request of February 1, 2006, I requested a second time that my objection to the funding of the Diocese be tabled on the public record., with again no response, or explanation provided by the Mr. Dumais (Exhibit A- Item # 11)

As you gave no reasons on December 6, 2005 for funding the Diocese, and as Pierre Dumais appeared to be unable to shed light on your reasons, on March 7,2006, I requested a copy of your recommendation to the Attorney General to ascertain, if in that recommendation you did in fact give your reasons, and I found that you did not give any reasons.(Exhibit A- Item #13) I did find, however, that the Commission made a recommendation on your behalf on December 12, 2005 four days after my letter of December 8, 2005 and you gave no reasons.

For a period of three months plus, I was not made aware, that your recommendation of December 12, 2005, four days after my letter of December 8, 2005, contained no reasons. Pierre Dumais knew, or should have known, that you gave no reasons on December 12, 2005, yet I did not find out until I requested and received a copy of your recommendation on March 7, 2006. ( Exhibit A- Item #12). As a result of these events, frustrated I decided to proceed no further privately to satisfy my concerns. In early June, however, I became aware that the Diocese, along with other parties, were requesting additional funding. This is what triggered my decision to go public and request standing and funding in order to address my concerns. This is some of the background to my request to-day .

I acknowledge, in defense of Mr. Dumais, that in my early correspondence with Pierre , that I was not aware of the current test for funding, although I should have been, if I had properly reviewed all the rules on the Commission's website, and this fact may have changed the nature of my original questions, seeking the case law and precedent judgements supporting your decision. Therefore, in fairness to Mr. Dumais, although he was heroic in his attempt to satisfy my concerns, this fact may have explained his failure to advise me, that you gave no reasons on December 12, 2005, for funding the Diocese, but in any case, they were questions to which the average person would seek answers.

## **ROMAN CATHOLIC CANON LAW**

Unfortunately Mr. Sheriff-Scott made a serious tactical error in his advocacy for the Diocese on December 6, 2005, by using Roman Catholic canon law, as an argument for granting funding to the Diocese. If the Diocese, or any other organization, has internal rules limiting its financial responsibility in an action, it is not the State, or Ontario's responsibility to solve their problem, unless for the Diocese, Ontario is a theocracy, and it is religious law that is supreme. Your Honor, by your comments at Hearing, you unfortunately re-enforced Mr. Sheriff-Scott's argument, where you should have immediately rejected his argument.

I am not cognizant, as to whether the Diocese was aware of Mr. Sheriff-Scott's argument, but I would like to think, that if they were aware, that they would also have rejected the use of Roman Catholic canon law in their advocacy for funding, but ultimately even if they were not aware, they should now distance themselves from such type of advocacy.

I also was troubled by Mr. Sheriff-Scott's comparison of the Diocese to the Association of Municipalities (AMO), which represents member municipal governments in Ontario, which received funding in the Walkerton Inquiry, which I found lacked foundation. This is akin to the suggestion that the Diocese's role is to act on behalf of all municipal governments in Ontario, or all other Diocese's, which is obviously absurd.

In my recommendation for funding all parties who meet the substantial and direct interest criteria, which follows, there would be no means test by the province, and we would not be dealing with these matte to-day.

## **THE TEST**

The test for granting of funding. I quote from para 59 of Commissioner's Rules and Item #10 of Order of Council, and also from Pierre Dumais.(Exhibit A- Item #8)

**"where in the Commission's view the party would not be otherwise able to participate in the Inquiry without such funding"**

The key to this test are the words : **"would not be otherwise able to participate."** These words imply by definition an assessment of a party's financial position, in order to make a determination for funding, and that some measuring stick would be employed in the making of a decision to grant or refuse funding to a party. But how many measuring sticks would you require? Obviously the measuring stick for an individual, or small group will be different from that of a large corporation. We would then have to establish categories, and for each category provide a different measuring stick, an impossible situation. Then how do we know if the measuring sticks for each category are themselves equal in determining the need for funding?

The current test, therefore, places undue burden on the parties to provide financial evidence in support of their funding, as well as being an invasion of privacy, and for you to interpret this information, particularly since the government did not provide for you a measuring stick to be used, in making each determination. In this circumstance being transparent and accountable in the administration of the present test would be a high bar to reach.

It is my considered opinion, therefore, when an Inquiry is imposed by the government, notwithstanding the request was by some of the public, that this places an undue additional financial burden on all the parties. The accused, or party giving major rise to the Inquiry, who must be assumed innocent, until such time as a court of law determines otherwise, will bear costs in civil and criminal proceedings to defend its actions. As result, to bear the additional costs of an Inquiry could be considered as double jeopardy.

For the other parties to the Inquiry, as no charges have been laid, and the purpose of the Inquiry is not to lay charges, but only to investigate the actions of the parties, in order to make recommendations for improvement in their response to the subject matter of the Inquiry, their costs, including the costs of provincial agencies and municipal governments, should be borne by the province, as the resulting recommendations may have application to all such parties from a provincial perspective. This should be recognized by the government, by basic funding to all parties. Such additional costs of the government may in fact be less than the costs of a Commissioner making a determination on funding, using an approved measuring stick, which itself would not be a perfect instrument.

If, however, valid reasons can be advanced for continued use of the existing test, in a revised format ,in exceptional cases of financial wealth, there may be some reason to continue the use of the existing test, if revised, in such circumstances. However, in my opinion, even this two tier approach is not required. Just give you authority to grant funding at your discretion, without a means test, recognizing that you must act responsibly . Therefore as a result of my consideration of the flaws of the existing test for funding , I would recommend in future Inquiries, simply a statement, that funding will be provided to all parties, with a substantial and direct interest, subject to appeal, at the discretion of the Judge.

Returning to the current test, it is my view that most reasonable people would agree for individuals and groups of few members ,the need to provide funding could be considered as self-evident, and therefore reasons for granting funding may not have been required by you. I believe, therefore, in the present situation it would only be the Diocese, that you should have given serious consideration, as to need for funding, and provide reasons, which you did not .As you declined to fund the Diocese in the first instance, what was there about their second presentation that cause you to change your mind?

However, even if you did provide reasons, because of the nebulousness of the existing test, no one would be able to ascertain if your decision was correct. So from the perspective of financial accountability to the public, using the flawed current test, it is unlikely that the public would be better informed.

## **THE PRESS**

My final concern is the role played by the local press, which in my opinion has a responsibility to hold our public institutions accountable. The Standard -Freeholder neither acknowledged my communications (letter, email or telephone call ) or had the courtesy to provide for me any explanation ,as to why they were not interested( Exhibit C- Item #8 ). I was not seeking publicity, as I advised that I was pursuing the matter privately, would be in Florida, (Exhibit C- Item #1) but in the event that I felt that I need to go public, they would have important background information. Obviously they should have known that I was not an idiot, which leads to the perception that they either wanted to protect you, or more particularly the Diocese. I believe that I had a legitimate concern under the present test for funding, for requiring reasons. They should have at least acknowledged my communications.

## RECOMMENDATIONS

I conclude this application for standing and funding with the following three recommendations:

1. In the spirit of good will, notwithstanding, that I believe, that you had the responsibility to provide reasons for your funding recommendations, and in particular for the Diocese, and that your discretion for such recommendations does not excuse you from exercising your obligation, in my view, for reasons that I have already advanced, that as the government has put you in an untenable position, in not providing for you an appropriate measuring device for your funding determinations, as a matter of conscience, as I believe no means test should be required, therefore, I am prepared to waive my right for such disclosure, which is not an admission, that you did not have an obligation to disclose reasons for the current test, for your recommendations, nor that my request for standing to-day has no merit.

For such waiver, as my remedy, although I am confident that Roman Catholic canon law did not enter your decision, I believe that you should publicly clarify the inference from your comments in the Hearing of December 6, 2005, that you may have considered Roman Catholic canon law, as one piece of evidence to justify your decision to grant the Diocese's request for funding. Clarifying your position, will have the additional benefit of removing any possible taint, that your decision to fund the Diocese may have, in creating the perception, on the part of the victims, of your bias in favor of the Diocese, in any future recommendations, that you may make.

2. As I am concerned about the potential for distortion and misrepresentation of my presentation "**Evidence in Support of Application for Standing and Funding**", in the interests of transparency and full public disclosure, I request that the said document be published in full on the Inquiry's website.

3. That because of the flaws in the current test for funding for the parties in this Inquiry, I recommend that the government consider doing away with the current means test for the reasons I have already indicated, and give you authority to grant funding, at your sole discretion, subject to appeal, without a means test, to those who meet the criteria of substantial and direct interest.

If you are able to convey your approval to recommendations #1, 2 and #3, I will withdraw my request for special standing and funding.

## CONCLUSION

Your Honor, in conclusion, as my concerns are picayune in terms of the issues you face in the Inquiry, my revelations will not be fatal to the conduct of the Inquiry. I can appreciate that your tasks and those of Commission staff are not easy, and in our adversarial system of justice, the perception of abuse of power, misconduct, hypocrisy and cover-up, real or imagined, often results. However, I am confident that you will convey your wisdom in any of the future recommendations that you may make.

Unfortunately the government's flawed test has put you in an untenable position in the performance of your duties, in respect to the granting of funding to the various parties. It was not my intention to denigrate your integrity, or Commission staff, or other parties, notwithstanding that I may have felt that you or others may have erred in some of your judgements. I believe that I have made reasonable recommendations to resolve this matter amicably. Although I may have been critical in my comments, I also hope that I have been constructive.

**H.K. MacLennan/ Application for Standing and Funding/July 19, 2006**

## **SUMMARY OF COMMUNICATIONS WITH COMMISSION**

(PIERRE DUMAIS)

My concern was first raised upon the reading of a Standard-Freeholder article of December 6, 2005, wherein it was stated that the Diocese was granted funding by the Judge, as it was unable to otherwise participate fully in the Inquiry.

As a result of that concern, following is a chronology of my communications to and from the Commission on the matter. Responses from the Commission are reported in full. Highlights from my communications are reported only. Following is the summary:

### **3. ON DECEMBER 8 TH , 2005, I FORWARDED A LETTER TO THE COMMISSION SEEKING THE CASE LAW AND PRECEDENT JUDGEMENTS USED BY THE JUDGE TO JUSTIFY HIS DECISION. I QUOTE A PORTION FROM THIS LETTER:**

*“I find it galling and reprehensible, that one of the parties participating in the alleged victimization and cover-up, is now requesting funding to protect its interests on the basis that it has insufficient funds, when the various acts alleged to have been committed were by the priests of those same parishes.”*

*Judge Glaude’s approval of funding for the diocese will obviously be perceived as a major bias, real or imagined, against the victim’s in the enquiry, and lead to further questions regarding the Judge’s ability to provide a fair and equitable judgement on the evidence. As a matter of the public record, in the interests of justice, I request the basis of the law, and or precedent judgements, that support the Judge’s action.*

### **4. ON DECEMBER 9, 2005 I FORWARDED A FOLLOW-UP LETTER, WHICH INCLUDED AMONG OTHER MATTERS THE FOLLOWING FURTHER STATEMENTS:**

*“1. That I have no personal interests in the Enquiry, know none of the participants, or parties.*

*2. That I expressed my disbelief of the Judge’s decision as a citizen of the province of Ontario, in the interests, primarily of justice, but also in the interests of provincial financial accountability.*

*3. That I request that copies of my letter of December 8th last, and this follow-up letter, be provided to the representatives of all the parties in the Enquiry, but more particularly the victims themselves.”*

On the morning of December 23, 2005, not having received a reply to my letters of December 8<sup>th</sup> and 9<sup>th</sup>, I telephoned the Commission’s office to ascertain the disposition of my requests. Later that morning I had a telephone call from Pierre Dumais advising that I would find my answers on the Commission’s website.

**5. SUBSEQUENTLY I REVIEWED THE COMMISSION'S WEBSITE AND BASED UPON MY REVIEW FORWARDED A LETTER DATED JANUARY 3, 2006, WHEREIN I ADVISED THAT I REVIEWED THE WEBSITE AND DID NOT FIND ANY ANSWERS TO MY CONCERNS OR QUESTIONS. I QUOTE PART OF MY RESPONSE TO MR. DUMAIS:**

*"3. It is difficult to rationalize, that an hierarchical organization, on the one hand, can exercise its authority at all levels for religious pastoral care, while on the other hand, restrict its authority or responsibility, and or liability, from the actions of the same persons in the structure at the same levels for its financial operation. It appears that for the financial aspect of the Church, canon law was so structured to shield or limit the church's exposure to financial liability, in this case liability of the Vatican, from the improper acts of the Diocese and parishes, and the parishes from the improper acts committed by the Diocese.*

*I am not sure what the structure of any organization, whether it uses canon law or not, has to do with ability to fund or accept liability for its actions, except as an internal matter for the organization- but ultimately the organization must pay. It appears that Mr. Sheriff-Scott is arguing that the Church's canon law, whether it be Roman Catholic, or other Christian law, or indeed Judaic, or Sharia law, in financial matters, supersedes provincial or federal law, and therefore the Enquiry financial burden of the Diocese needs to be shifted to the public purse.*

*4. Mr. Sheriff-Scott cited the case law from the Walkerton Enquiry to justify funding for the Diocese. In his view the Walkerton Enquiry was an "apples to apples" example, supporting the granting of funding to the Diocese, based upon his "perception of reasoning", of the position of Justice O'Connor, although Justice O'Connor did not "talk about it explicitly". In other words Mr. Sheriff-Scott made a leap of faith, that the Walkerton example was comparable to the Diocese.*

*In my view the Walkerton example is far from an "apples to apples" comparison. The Association of Municipalities of Ontario (AMO) is a non-profit organization representing the municipal order of government, and provides a variety of services and products to members and non-members. Municipalities are a creature of the government and AMO lobbies the government in the interest of these same creatures. Mr. Sheriff-Scott's argument is ridiculous to the extreme. It seems to go like this: the Diocese is like AMO, a lobby group. It lobbies the provincial government on behalf the City of Cornwall and other local municipalities. Since it's mandate is to lobby on behalf of these same municipalities, and since it has limited financial resources, it therefore should receive provincial public funding."*

From the same letter I made the following additional comments:

*"I note that there was no mention as to whether the Commission had availed itself of the opportunity of inspecting the financial records of the Diocese, to confirm or corroborate its claims, nor search by the Commission, for the law or case law, supporting the Diocese's*

*application for funding. I therefore conclude, that the Judge has not exercised due diligence, but has uncritically accepted the Diocese's representation.*

*In my considered view , most rational persons, who would have access to the presentation of the Diocese, would find such request not sustainable. The matter, that is of most concern, is that the Diocese had the gall to request funding, when it is the alleged actions, and cover-up by members of the Diocese, that has given rise to the Enquiry in the first place. The decision of Judge Glaude to grant the request of the Diocese, in my view, on no supporting evidence, is tantamount to the perception of bias by the Judge, in favor of the Diocese, and should be a concern to the victims and all the other parties at the Enquiry. To restore the public confidence in the work of the Commission, the Judge owes the public a full documented explanation of the reasons for his decision.*

*The most troubling and shameful aspect of the Diocese's request, is that the Church, one of the missions of which, is to promote desirable moral behavior, and whose alleged actions of clergy, have precipitated the Enquiry, is seeking public funds, by using its canon law to shield, or excuse itself from accepting full financial and moral responsibility, to bail itself out of its alleged financial quandary."*

In the same letter, I make the following recommendation:

*"I prefer that my concern be a private matter between the Commission, the Judge and myself. I, however, request the Judge to reconsider his decision, including seeking the advice of the Attorney General, or other learned officials. The alternative, and the more honorable course of action, would be for the Bishop, as the moral leader of the Diocese, to accept responsibility for the underwriting of the costs of the Enquiry, by withdrawing the Diocese's request for funding. Subsequent to the Commission's response to my concern, I will consider what, if any, further action is required."*

**6. ON JANUARY 5, 2006 I FORWARDED THE FOLLOWING LETTER, WHEREIN I SPECIFICALLY PHRASED THE QUESTIONS TO WHICH I REQUESTED ANSWERS:**

*"1. What other cases in Ontario, where the party was the subject to both civil and criminal lawsuits, received funding, in order to explain away its actions, and if so under what conditions was such funding provided?"*

*2. In what other cases in Ontario has a specific religion received public funding to explain away its actions, where it was the subject of both civil and criminal lawsuits, and if so under what conditions was such funding provided?"*

*3. Assuming that the above two conditions were met in this case, why did not the Commission inspect the financial records of the Diocese to determine the legitimacy of its request. ( I do not need to remind the Judge that religion is big business, and there is ample record of big business*

*misrepresenting its financial statements to the detriment of the public at large. This is not to suggest that the diocese has done so, only that it is incumbent on the Judge to personally satisfy himself before passing judgement. )”*

**7. ON JANUARY 11, 2006, PIERRE DUMAIS REPLIES BY EMAIL AS FOLLOWS TO MY LETTER OF JANUARY 5, 2006 :**

*“Dear sir, I have reviewed your correspondence dated January 5th, 2006, received at our office on January 9th, 2006 and wish to thank you for your continued interest in the Inquiry. As indicated in my last conversation with you I believe that all of the answers to your questions can be found on our Website in the Submissions of counsel and accompanying documents as well as in the transcripts in the Commissioner's questions for the Party and his subsequent decision. I do not know what else to add. The relevant case law was submitted and considered by the Commissioner and he decided that this particular party satisfied the test to receive funding. Please give me a call or make an appointment to meet me at our office, at the address indicated below, if you wish to discuss the matter further. Pierre R. Dumais”*

**8. ON JANUARY 15, 2006, I FORWARDED THE FOLLOWING RESPONSE TO PIERRE DUMAIS'S EMAIL OF JANUARY 11, 2006:**

*On December 23<sup>rd</sup> last you telephoned me advising that I would find answers to my concerns and questions, as outlined in my letters of December 8<sup>th</sup> and 9<sup>th</sup>, 2005, on the Commission's website. On January 3<sup>rd</sup> and 5<sup>th</sup> I responded that I did not find any answers on the Commission website to address or satisfy my concerns, or answer my questions of December 8<sup>th</sup> and 9<sup>th</sup>, 2005.*

*In your email of January 11, 2006, rather than answer my concerns and questions, instead again request that I look at the same Commission website to find the answers to my same questions and concerns.*

*I, as you suggested, again reviewed the website information, and continue not to find any reasonable explanation or justification for funding of the Diocese. On my review, I particularly noted, the most troubling and shocking aspect was the Judge's revelation, based upon the report of Reverend Morrissey, that he was “for one clearly in the dark” as to the affect of Roman Catholic canon law related to its finances, on the Diocese's ability to underwrite its expenses at the Enquiry- the impression given, is that it is Roman Catholic canon law, Judaic law or Sharia law, that is the governing force in Ontario jurisprudence. The Judge goes on to say, I again quote, “ that this Inquiry is not about conventional wisdom, but the facts”, suggesting that Roman Catholic canon law on financial matters are the facts. The Judge's statements are tantamount to the declaration that Ontario is a theocracy. I find such admissions and statements beyond disbelief.*

*I respectfully submit that your continued avoidance to address my concerns and answer my questions, but repeatedly state that I will find answers to my concerns on the Commission's*

*website is tantamount to admission that you are unable to address my concerns, or answer my questions, otherwise most reasonable persons would have done so. I am not an unreasonable person, but I expect reasonable answers, not the continued stonewalling of my requests. I would expect more from the Commission staff and Judge, but based upon my responses to date, can only conclude that there is a serious problem of competence.*

**9. ON JANUARY 16, 2006, I RECEIVE A REPLY BY PIERRE DUMAIS TO MY LETTER OF JANUARY 15, 2006:**

*Ken, I now have been able to open your e-mail. I am not avoiding your questions as you indicated but rather I am advising you that I do not know what else to add. You obviously disagree with the Commissioner's decision and certainly you are entitled to your opinion. The fact that the Diocese is a religious institution has no bearing on whether or not they should have been granted standing or funding. That is not the test and that is why I invited you to review our Rules to review what the tests are. The "Roman Catholic canon law" which you refer to simply explains the financial structure of the Diocese. Nowhere is it indicated by the Commissioner that it "supersedes Ontario law". The fact that a party faces civil or criminal lawsuits is not part of the test either. The test is as indicated in par. 59 and I quote "where in the Commission's view the party would not be otherwise able to participate in the Inquiry without such funding". Again in answer to your question 3, the fact that this party represents a specific religion has no bearing on the legal test for being granted funding. With respect to the financial records, my recollection is that they were filed with the Commission as an exhibit to the Diocese's submissions. I don't know what to answer to your suggestion that the Commissioner did not satisfy himself of the veracity or accuracy of the records. It is an assumption you are making and I don't know what else to add. I understand that all of these questions are important to you and hopefully I have been able to address your concerns. As indicated in my last e-mail I would be pleased to meet with you if you wish to discuss the matter further. Pierre*

**10. ON JANUARY 17, 2006, I FORWARDED MY RESPONSE TO PIERRE DUMAIS'S EMAIL OF JANUARY 16, 2006, AS FOLLOWS:**

*I agree with your comment re: test to determine necessity to fund. I quote "where in the Commission's view the party would not be otherwise able to participate in the Inquiry without such funding".*

*Where I and the Judge disagree, is that I do not believe that Mr. Sheriff-Scott's presentation met that test, and the Judge believes that Mr. Sheriff-Scott's presentation did meet the test. The only evidence I can find from the Hearing for the Judge's justification is by inference- Roman Catholic canon law on financial matters. Let me quote again this inference from my email of January 15, 2006 :*

*"I particularly noted, the most troubling and shocking aspect was the Judge's revelation, based upon the report of Reverend Morrissey, that he was "for one clearly in the dark" as to the affect of Roman Catholic canon law related to its finances, on the Diocese's ability to underwrite its expenses at the Enquiry- the impression given, is that it is Roman Catholic canon law, Judaic law*

*or Sharia law, that is the governing force in Ontario jurisprudence. The Judge goes on to say- I again quote, " that this Inquiry is not about conventional wisdom, but the facts", suggesting that Roman Catholic canon law on financial matters are the facts. The Judge's statements are tantamount to the declaration that Ontario is a theocracy. I find such admissions and statements beyond disbelief." (P.32, Public Hearing, December 6, 2005)*

*If the Judge sought an independent audit of the Diocese's most recent financial statements, and the evidence presented in the statements was a justification for funding of the Diocese, I would have no problem. The only impression I am left with is the shocking revelation that the Judge based his decision solely on Roman Catholic canon law as it regards its financial structure.*

**11.ON FEBRUARY 1, 2006, I FORWARDED THE FOLLOWING DOCUMENT BY EMAIL TO PIERRE DUMAIS, REQUESTING THAT MY OBJECTION TO THE DIOCESE'S FUNDING BE TABLED AS PART OF THE PUBLIC RECORD:**

*With respect, as the answers you provided, in our telephone conversation of December 23<sup>rd</sup> last, and emails of January 11<sup>th</sup> and 16<sup>th</sup>, have not adequately satisfied the concerns and questions I raised in my communications of December 8<sup>th</sup> and 9<sup>th</sup>, 2005, and January 3<sup>rd</sup>, 5<sup>th</sup>, 15<sup>th</sup> and 17<sup>th</sup>, 2006, to bring the matter to a close, as I have been unable to resolve this matter privately, I request that this communication registering my objection to the public funding of the Diocese by Judge Glaude, be tabled as part of the public record.*

*The test for receiving funding, as you noted in your email of January 16<sup>th</sup>, is found in par.59 "where in the Commission's view the party would not be otherwise able to participate in the Inquiry without funding". It is my considered opinion that Mr. Sheriff-Scott, representing the Diocese, did not meet that test in either his Walkerton example, or argument that the Diocese was unable to fund, because of Roman Catholic canon law on finances.*

*I reached my conclusion based for the following two major reasons:*

*1.That Judge Glaude's citing "that this Inquiry is not about conventional wisdom but the facts." in reference to Roman Catholic canon law on financial matters, is suggestive that Ontario is operating as a theocracy, and as a result is a complete misrepresentation of the facts in Ontario jurisprudence. The purpose of Mr. Sheriff-Scott's argument was a blatant attempt to shift funding from the Diocese to the public purser, and avoid the Diocese's responsibility in the matter.*

*2.That I did not find any evidence, where the Commission conducted an independent financial audit of the Diocese's finances. All I found were general statements and recollections, and nothing more.*

**12.ON FEBRUARY 16, 2006, I FORWARDED THE FOLLOWING EMAIL TO PIERRE DUMAIS, REQUESTING FOR THE SECOND TIME HIS RESPONSE TO MY EMAIL**

**TO HIM OF FEBRUARY 1ST, 2006, REQUESTING THAT MY OBJECTION BE TABLED AS PART OF THE PUBLIC RECORD:**

Pierre, on February 1st last, as I was unable to resolve the matter privately, I requested that my letter of the same date expressing my objection to the funding of the Diocese be registered as part of the Commission's official public record, and that you confirm such tabling by the Commission.

Would you please advise as to whether you have acted upon my request of February 1st last, and if not, why you have not done so, in order that I might consider what further action I may wish to take in the matter.

Ken

**13. MARCH 7, 2006- MY EMAIL TO PIERRE DUMAIS, REQUESTING COPY OF JUDGE GLAUDE'S RECOMMENDATION FOR FUNDING OF THE DIOCESE**

*Our local MPP, Jim Brownell, has advised me that I could obtain the recommendation Of Justice Glaude for funding of the Diocese from you. I quote from his recent email:*

***"These decisions and a letter summarizing the funding recommendations were forwarded to the Ministry of the Attorney General on December 12, 2005. If you would like a copy, feel free to contact Pierre Dumais at the Commissioner's Office at 613-938-2461 and he will provide it to you.***

***The Ministry of the Attorney General accepted the Commissioner's recommendations on December 23, 2005."***

*Would you please forward to me a full and complete copy of the recommendations of Justice Glaude, of December 12, 2005, in particular for funding of the Diocese, as referenced by Mr. Brownell.*

**14. MARCH 10, 2006- EMAIL FROM PIERRE DUMAIS, WITH COPY OF JUDGE'S RECOMMENDATION.**

Hi Ken. Here are the documents you requested. Regards. Pierre<<to M.Leach Dec 12-05 re funding recommendations.doc>> <<attachment 1 - Commissioner's notes.doc>>

*The Diocese of Alexandria-Cornwall and Bishop Eugène LaRocque: Funding for one senior counsel, one intermediate counsel, and one junior counsel, limited to one counsel attendance fee.*

*The Commissioner indicated in his decision that he would recommend that funding be retroactive to the date of his appointment, limited to those expenses directly related to the preparation and presentation of the parties request for standing and funding. The Commissioner also indicated in his decision that he expected that the Attorney General would issue funding guidelines that are similar, if not identical, to those issued in previous inquiries.*

*Please advise whether the Attorney General approves the Commissioner's funding*

*recommendations, and if so, what process will be followed to ensure that parties receive funding.*

**15. MARCH 13, 2006- MY EMAIL TO PIERRE DUMAIS EXPRESSING DISBELIEF THAT THE JUDGE COULD MAKE SUCH A RECOMMENDATION WITHOUT EXPLANATION OR JUSTIFICATION, AND THAT THE GOVERNMENT ACCEPTED THE FLAWED RECOMMENDATION OF THE JUDGE.**

*Thank you Pierre for the copy of the guidelines for funding, and Peter Engleman's letter to the office of the Attorney General, advising of the recommendation of the Judge for funding of the Diocese.*

*I should have been surprised, but I was not, that no explanation or justification for funding of the Diocese was given in the Judge's recommendation.. The only evidence for the Judge's decision appears to be from the Hearing of December6, 2005, where the Judge referred to the information provided by Mr. Sheriff-Scott, based upon the report of Reverend Morrissey, that he was **"for one clearly in the dark"** as to the affect of Roman Catholic canon law related to its finances, on the Diocese's ability to underwrite its expenses at the Enquiry. The Judge goes on to say- I again quote, **"that this Inquiry is not about conventional wisdom, but the facts"**, suggesting that Roman Catholic canon law on financial matters are the facts. I have been provided with no other explanation. The Judge may have wide discretion in making his recommendation, but this discretion should contain some semblance of reason.*

*What is equally as troubling is that the Attorney General accepted this recommendation, without any supporting evidence. It is particularly sad that both the Commission and the Government can operate without accountability to the public, and with impunity.*

*I realize that in the scheme of things my concern is picayune .Although it is the Commission's legal counsel that is to represent the public interest, it appears that I am the only one with the courage or impudence to do so. The Judge, in outlining the guidelines for conduct of the Commission speaks of transparency and openness. So much for openness and transparency, when my two requests to table my objection to the funding of the Diocese, have been ignored.*

*I have no problem with the funding of the Diocese, if adequate justification is given. Roman Catholic law on finances is not part of that justification.*

*I realize that you likely have more important matters on your agenda, but in any case, I thank you for your patience and forbearance.*

**16. PIERRE DUMAIS'S EMAIL RESPONSE( DUMAISEMAIL8), TO MY (DUMAISEMAIL6), ON THE RECOMMENDATION OF THE JUDGE AND THE ATTORNEY GENERAL'S RESPONSE.**

*Ken, The only thing I can suggest is that you can file an application to be granted standing to the*

*proceedings. You could thereafter pursue any remedy that you deem appropriate. Regards. Pierre*

### **17. MARCH 13, 2006- MY RESPONSE (DUMIASEMAIL7) TO (DUMAIEMAIL8)**

*It is interesting Pierre, even I thought of that!! You are a gentleman to make the suggestion! I appreciate your understanding. It goes a long way, in bringing to me some sense of satisfaction, for all my rumblings. However, I do not plan to take up your suggestion. I doubt that the Judge would either grant me standing or indeed funding.*

*Notwithstanding my criticisms, I know that you are representing the public interest, but it is difficult to serve two masters- the public and the Judge. I am sure that the Judge's goal is also to serve the public interest. Other than the litigants with standing, there seems to be no other mechanism to hold the Judge accountable for his actions. My ruminations were intended to serve this purpose. Maybe future Inquiries should build into the structure, a general ombudsman to perform this role, but at the same time, it may put the Judge in an impossible situation in the conduct of an Inquiry.*

*I look forward to the ruling of the Judge on the argument of Sheriff-Scott that the Diocese is not a public institution. From my perspective, I believe that the Judge has already answered the question. Thank you again for your patience and understanding, with one exception, in responding to my concerns.*

### **18. JUNE 19, 2006- I FORWARDED THE FOLLOWING REQUEST FOR STANDING HAVING BECOME AWARE THAT THE DIOCESE HAD MADE A REQUEST TO AMEND ITS FUNDING.**

“As the Judge, who originally rejected funding of the Diocese, upon reconsideration, did not provide an explanation or reasons in his recommendation to the Attorney General, as to why he granted funding, and as the Attorney General accepted the flawed recommendation, and as I understand that the Diocese, along with other parties, is requesting additional funding, I believe that the Judge has a responsibility to explain to the public the basis of his original granting of funding to the Diocese, before consideration of any additional funding for the Diocese is granted.

I note that the only information provided from the transcript of the Hearing of December 3, 2005 were from the comments of Mr. Sheriff-Scott, on behalf of the Diocese, who argued that Roman Catholic canon law prevented the Diocese from accepting its full financial responsibility, and that the Diocese was like the Association of Municipalities of Ontario (AMO), a non-profit organization representing the municipal order of government, providing a variety of services and products to members and non-members, which received funding in the Walkerton Water Inquiry.

Regarding Roman Catholic canon law , I quote from the Judge's comments regarding this canon law- **“for one clearly in the dark”** and **“that this Inquiry is not about conventional wisdom, but the facts”**. Regarding the Walkerton water Inquiry, I quote from Mr. Sheriff-Scott, who argued that the AMO was, an **“apples to apples”** example, supporting the granting of funding to the Diocese, based upon his **“perception of reasoning”** , of the position of Justice O'Connor,

although Justice O'Connor did not **“talk about it explicitly”**.

As any recommendations from the Commission should be evidence based, as Roman Catholic canon law does not supersede the law of the legislature, nor is the AMO an **“apples to apples”** comparison to the Diocese, as argued by Mr. Sheriff-Scott, and as there was no evidence of an independent audit of the Diocese's finances, it is important in the interest of transparency and accountability that the Judge disclose his evidence or reasoning for funding.

I have no objection to the Diocese's funding. My only objection is that no rational explanation or justification has been given. As it is my understanding that the Judge is open to external review of his decisions and rulings, for which he is to be commended, and as I was unable privately to secure such reasons for the original public funding of the Diocese, including failure of the Commission, after two separate requests, to table my objection, as no satisfactory reasons were provided, including the suggestion of Pierre Dumais, legal counsel of the Commission to secure standing, which I declined, I, now have reconsidered, and therefore, respectfully request standing, and the necessary funding to seek those satisfactory reasons, including appeal to a higher court, if necessary, if such reasons are not deemed satisfactory.

I can appreciate that the tasks of the Judge and Commission are not easy, and in our adversarial system of justice, the appearance of abuse of power, evasion, hypocrisy and cover-up, real or imagined, often results. As the Judge's granting of funding to the Diocese without disclosure of evidence is tantamount to the perception of bias in favor of the Diocese, the victims and the community should not be encouraged in any recommendations that may evolve from the Inquiry. As the Inquiry is about transparency and accountability, in order to remove such perception of possible taint, I regret that I feel it necessary to make the above request for standing in the interest of full public disclosure and financial accountability. “

## **CONCLUSION**

On December 8, 2005, I sought an explanation for the funding of the Diocese. Three months later on March 13, 2006, and after numerous communications, and after requesting a copy of the Judge's recommendation, I discover that the recommendation for funding of the Judge was made on December 12, 2005 and contained no reasons for his recommendation. Mr. Dumais should have known on December 12, 2005 that there were no reasons given by the Judge for funding of the Diocese, yet he did not disclose this fact, but instead continued to provide misinformation, including failure to register my objection to funding of the Diocese, after two attempts, and without explanation, as to why the Commission would not do so. One can only conclude that Pierre Dumais is either incompetent, or is trying to protect the Judge, and or the Diocese. It is my considered opinion that such action rises to the level of lawyer misconduct and should be addressed.

**H.K. MacLennan/ Application for Standing and Funding/July 19, 2006**

## ***EXHIBIT B***

### **MACLENNAN/APPLICATION FOR STANDING AND FUNDING**

#### ***SUMMARY OF COMMUNICATIONS WITH JIM BROWNELL, MPP***

##### **1. ON JANUARY 8, 2006, I EMAILED JIM BROWNELL, MPP, ATTACHING ALL MY COMMUNICATIONS TO DATE.**

"For your information attached please find letters dated December 8th, 9th, 2005 and January 3rd and 5th, 2006 regarding the Cornwall Public Inquiry's granting of funding to the Diocese by Judge Glaude. I believe the contents of the letters are self-explanatory. I strongly recommend that you review the presentation of Mr. Sheriff-Scott on behalf of the Diocese. I regard the presentation of Mr. Sheriff-Scott completely lacking in creditability, and the decision of the Judge, an absolute abuse of power.

I submit for information only. I would appreciate if you might make copies available to the Attorney General.

I am aware that although the Enquiry is a creation of the Legislature, that the political arm of the government is unable to intervene in the work of the Commission.

I regret that I feel it necessary to register my individual objection to the funding of the Diocese, but feel reassured, as my objection is shared by many of both religious and non-religious persuasions.

Subject to receipt of my response by the Commission, I will consider what further action, if any, I wish to take."

##### **2. JANUARY 10, 2006- EMAIL FROM JIM BROWNELL RE: MY EMAIL OF JANUARY 8, 2006**

Good morning, Mr. MacLennan. Thank you for your e-mail. Unfortunately, our office only uses Word and therefore I was unable to open the attachments. If you could convert to Word and re-send, we will be able to open the files. Should you wish to fax the information, you may do so at 613-933-6449.

Good morning, Mr. MacLennan. Thank you for your e-mail. Unfortunately, our office only uses Word and therefore I was unable to open the attachments. If you could convert to Word and re-send, we will be able to open the files. Should you wish to fax the information, you may do so at 613-933-6449.

##### **3. ON JANUARY 15, 2006, I FORWARDED THE FOLLOWING EMAIL TO JIM BROWNELL MPP, INCLUDING A COPY OF PIERRE DUMAIS EMAIL OF JANUARY 11TH, AND MY RESPONSE OF JANUARY 15TH, TO HIS EMAIL OF JANUARY 11TH:**

"Following please find email response dated January 11, 2006, of Pierre Dumais, legal counsel to the

Commission, to my letters of December 8th and 9th, 2005 and letters of January 3rd and 5th, 2006. "Dear sir, I have reviewed your correspondence dated January 5th, 2006, received at our office on January 9th, 2006 and wish to thank you for your continued interest in the Inquiry. As indicated in my last conversation with you I believe that all of the answers to your questions can be found on our Website in the Submissions of counsel and accompanying documents as well as in the transcripts in the Commissioner's questions for the Party and his subsequent decision. I do not know what else to add. The relevant case law was submitted and considered by the Commissioner and he decided that this particular party satisfied the test to receive funding. Please give me a call or make an appointment to meet me at our office, at the address indicated below, if you wish to discuss the matter further. Pierre R. Dumais"

Dumaisemail

**4. ON JANUARY 21, 2006, I FORWARDED THE FOLLOWING RECOMMENDATION TO JIM BROWNELL, MPP:**

*"I attach my January 15th response to his email of January 11th.*

*The Judge makes recommendations to the Attorney General for funding. I am requesting that the Attorney General withhold funding until such time as I receive a satisfactory response to my questions and concerns, as outlined in my response to Pierre Dumais of January 15th, last.*

*I regret that I feel that I need to pursue this matter further, but I believe most reasonable persons would also share my same concern of the actions of the Judge in the matter."*

**5. ON JANUARY 24<sup>TH</sup>, I RECEIVED THE FOLLOWING EMAIL FROM JIM BROWNELL, REPLYING TO MY EMAIL OF JANUARY 15, 2006:**

*"Good afternoon, Mr. MacLennan: I thank you for your numerous e-mails pertaining to the Cornwall Public Inquiry. You have done the correct thing in corresponding directly with legal counsel and I hope your concerns have been noted and answered to your satisfaction. As you know, neither I nor the Attorney General can make any comments nor respond in any fashion relating to the Inquiry. All communications must be addressed to Justice Glaude and his team. Once again, thank you for writing. Jim Brownell, MPP Stormont-Dundas-Charlottenburgh"*

**6. ON JANUARY 25, 2006, I FORWARDED THE FOLLOWING EMAIL TO JM BROWNELL ON A POINT OF CLARIFICATION:**

"Notwithstanding your email of January 24th last, advising that neither you or the Attorney General can make any comments, nor respond in any fashion relating to the Inquiry, Section C, Rules and Procedures, states that the Commissioner may make recommendations for funding to the Attorney General for those recognized for standing.

On a point of clarification, as required by the Rules of the Inquiry, am I to assume that the Judge has made such a required recommendation for funding under Part C. and the Attorney General has accepted the Judge's recommendation, as stated in the Public Hearing of December 6, 2005, based upon the Judge's inference on p. 32 of the said Hearing, that he accepted the Diocese's argument for funding, based upon Roman Catholic canon law, as regards finances, and without independent audit of the Diocese's finances.

Please confirm that the Attorney General has so acted, based upon the reasons advanced by the Judge, and without audit of the Diocese's finances."

**7. ON FEBRUARY 16, 2006, I FORWARDED THE FOLLOWING EMAIL TO JIM BROWNELL, MPP, REQUESTING AGAIN HIS RESPONSE TO MY EMAIL TO HIM OF JANUARY 15, 2006:**

"Jim. on January 25th last, I made the following request:

"Notwithstanding your email of January 24th last, advising that neither you or the Attorney General can make any comments, nor respond in any fashion relating to the Inquiry, Section C, Rules and Procedures, states that the Commissioner may make recommendations for funding to the Attorney General for those recognized for standing.

On a point of clarification, as required by the Rules of the Inquiry, am I to assume that the Judge has made such a required recommendation for funding under Part C. and the Attorney General has accepted the Judge's recommendation, as stated in the Public Hearing of December 6, 2005, based upon the Judge's inference on p. 32 of the said Hearing, that he accepted the Diocese's argument for funding, based upon Roman Catholic canon law, as regards finances, and without independent audit of the Diocese's finances.

Please confirm that the Attorney General has so acted, based upon the reasons advanced by the Judge, and without audit of the Diocese's finances."

As three weeks have elapsed, would you please advise as the status of my request.

Ken"

**8. ON MARCH 1, 2006, I FORWARDED AN EMAIL TO JIM BROWNELL, REQUESTING FOR A THIRD TIME A RESPONSE TO MY EMAIL OF JANUARY 15, 2006, AND REQUESTING COPIES OF THE RECOMMENDATION OF JUSTICE GLAUDE FOR FUNDING, AND THE ATTORNEY GENERAL'S REPLY.**

"To-day is March 1, 2006. As I have not received a response to my two previous requests, in lieu, I request a copy of the Judge's recommendation to the Attorney General to fund the Diocese, and the Attorney General's letter approving the Judge's request for funding. I hope I do not have to go through the Freedom of information Act .

The operative word is transparency. None of my requests affect the operation of the Commission or the Government. All I am seeking is information. If the Inquiry has no accountability, then it is a joke. In the beginning I asked a simple question, and all I wanted was a simple answer. All I have received to date is obfuscation, generalities, failure to respond, and evasion, which leads to the perception of a cover-up.

I have attempted to seek my answers privately, but to no avail. I have no interest in personally making the matter a public or political issue. However, unless I receive specific answers to my questions, I am inclined to release my communications to and from the commission, and you, to the other political parties, and or Press, who may ,or may not feel, that I am being treated unfairly in my attempt to secure answers. This is not a threat. This is a fact of life. I am powerless. It is the government and the Commission that have the power.

The bigger issue may be not the Judge's justification or lack of justification, for funding of the Diocese, but how the Commission and the Government have dealt with my questions. How dare I ask those questions?

You will be happy to know that this is my last communication. If the Attorney General does not grant my request for copies of the Judge's recommendation and his reply, or I receive a copy of the law that prevents such release, I will pursue other avenues in the interest of public accountability.

Sorry for causing you all the trouble.

Ken”

**9. MARCH 2, 2006- JIM BROWNELL’S E-MAIL RESPONDING TO MY E-MAIL OF MARCH 1, 2006**

“Good Evening Ken:

1. It is unfortunate that there has been a delay in responding to your query. Just today, I got a copy of the earlier email you forwarded, and this is the first time to feel your frustrations. Your first message came to me via my Blackberry, however that was not the case with the follow-ups.

My staff at Queen's Park is working on this, and they have been in contact with the Attorney-General's office. We have asked for a response ASAP. In the Legislature, I alerted the Attorney-General about your query, and he said he would work with staff to get something to me, relative to your concerns.

My Executive Assistant, Craig Carter-Edwards is the contact at my office on this. He's made contact with the A-G's office, and he will be in touch with you. I believe he left a contact message on your phone, today.

Once again, my apology for the delay. I don't understand why your subsequent emails did not get to me. Looking into this. My apology for any typos in this, as the message is being prepared on my Blackberry, while travelling home by train. Tiny keys on this machine.

Regards,

Jim”

-----  
Sent from my BlackBerry Wireless Handheld”

**10. MARCH 3, 2006- MY E-MAIL TO JIM BROWNELL, RESPONDING TO HIS E-MAIL OF MARCH 2, 2006**

“Thank u Jim for your response. Obviously you are in damage control and I understand. I accept your explanation for not responding to my emails. I know the job of a politician is not easy. You cannot please everyone. As I believe I have already intimated, I am not interested in embarrassing you, or the government, and your response to-day is encouraging.

2. Notwithstanding, it would be helpful if I had a copy of the Judge's recommendation for funding of the Diocese, and the Attorney Generals' response. Subject to this information, I will make my decision, as to whether I will forward my communications with you, and the Commission, to the Press, and the other political parties. This is not my preferred option.

I am not sure as to whether I sent you a copy of my email of February 1st, with attached document, to Pierre Dumais, Commission legal counsel, requesting that my letter of objection to the public funding of the Diocese be tabled as part of the public record. As I received no confirmation, I followed up the matter again on February 16th, and again have received no response. This coupled with your lack of response to my emails of January 25th and February 16th, resulted in my frustration, and the perception of cover-up, hence my e-mail to you of March 1st. If the Commission had acceded to my request the matter may have ended there.

The reason I wish to see the recommendation of the Judge, and the Attorney General's response, is to ascertain if the Judge's recommendation was consistent with his comments at the Hearing of December 6th, and if the Attorney General concurred in the recommendation. Maybe the Judge made no

recommendation or a completely different one from the comments he made at the Hearing. In either case, let the truth be known.

The problem in this whole scenario seems to be, that rather than being honest, all the parties are interested in, is covering their asses. This is when they get into real trouble, through the cover-up of their actions. When the facts are known, their cover-up is worse than their original mistakes. There are many examples which support my point.

I await with interest the response of the Attorney General, and will make my decision at that time. “

### **11. MARCH 6, 2006- JIM BROWNELL'S EMAIL TO ME ADVISING I COULD RECEIVE COPY OF JUDGE GLAUDE'S RECOMMENDATION FOR FUNDING OF THE DIOCESE FROM PIERRE DUMAIS**

“Good Morning Ken:

I have received a response to your request concerning the funding to the Diocese for the Cornwall Inquiry from officials at the Attorney General's Office.

The Commissioner gave rulings on November 17, 2005 and December 6, 2005 with respect to funding for the Inquiry. You can find these rulings on the Commission's website at:  
[www.Cornwallinquiry.ca/en/hearings/rulings/index.html](http://www.Cornwallinquiry.ca/en/hearings/rulings/index.html)

These decisions and a letter summarizing the funding recommendations were forwarded to the Ministry of the Attorney General on December 12, 2005. If you would like a copy, feel free to contact Pierre Dumais at the Commissioner's Office at 613-938-2461 and he will provide it to you.

The Ministry of the Attorney General accepted the Commissioner's recommendations on December 23, 2005.

I hope that this information answers your questions. Just let me know if there is anything else I can do for you on this matter.

Best Regards,

Jim”

### **12. MARCH 6, 2006- MY EMAIL TO JIM BROWNELL THANKING HIM FOR HIS PROMPT REPLY**

“Thank you Jim for your prompt reply.

As I believe I told you, I am in West Palm Beach and just leaving to play golf .

I will check your info', and e-mail Pierre, and get back to you.

Ken”

### **13. MARCH 14, 2006- MY EMAIL TO JIM BROWNELL ADVISING THAT I WAS NOT PLANNING ANY FURTHER ACTION AT THIS TIME, AND ATTACHING DUMAISEMAIL6, 7 AND 8;**

“Attached please find

1. my response to Pierre Dumais, commenting upon the Judge's recommendation and the Attorney General's acceptance.

2. Pierre Dumais's response to my response

3. My response to Pierre's response

I am not contemplating pursuing the matter further. If I should do so, I will advise.

However, once I return home, I may want to pay a social call at your office.”.

**14. JUNE 28, 2006- I ADVISE JIM BROWNELL OF MY APPLICATION FOR STANDING, AS FOLLOWS:**

“I have reconsidered my previous decision to not take any action on the Judge’s decision not to provide reasons for the funding of the Diocese, and have made application for Standing, as attached, in order to address the matter.

In the process I will be tabling all my communications to and from the Commission, Government and Standard Freeholder, as reference to my presentation in support of my application for Standing. I will be noting that the Attorney General did not take heed of my request that he withhold approving the Judge’s recommendation until such time as the appropriate review was given of Judge’s recommendation to fund the Diocese, without reasons, and that the Attorney General accepted the Judge’s flawed recommendation..

I regret that I feel it necessary to take this action, but I believe once you see my reasons, that you will support my decision. I have attempted to avoid any personal displeasure with your role. Our communications will speak for themselves.

I would prefer to avoid and characterizing the conduct of any of the parties in the matter, as may result from my presentation, and am seeking means to avoid doing so, as per my attached letter to Peter Engleman.”

**H.K. MacLennan/ Application for Standing and Funding/July 19, 2006**

## ***EXHIBIT C***

### **MACLENNAN/APPLICATION FOR STANDING AND FUNDING**

#### ***SUMMARY OF MY COMMUNICATIONS WITH THE STANDARD FREEHOLDER (TERRI SAUNDERS)***

##### **1. JANUARY 5, 2006- I FORWARD THE FOLLOWING LETTER TO TERRI SAUNDERS, STANDARD FREEHOLDER**

Attached are my communications with the Commission dated December 8th and 9th, 2005, and January 3rd, 2006. I believe that they are self-explanatory. In reviewing my communication of January 3<sup>rd</sup> and 5th, you should make reference to the Commission website and the presentation of Mr. Sheriff-Scott.

Just a short explanation of why I contacted you. I did so for two reasons- your excellent and fair coverage of the Enquiry, and secondly, from my previous contact and satisfaction about your reporting, I felt confident that if I decided to go public, that you would fairly represent my concerns. In ordinary circumstances, I would not have contacted you, until I had a response to my concerns, and was still not satisfied, but since my plans are to leave for Florida on Tuesday next, I decided to make contact earlier.

If for any reason I am dissatisfied with the response to my concerns, I will contact you by email granting you permission to do as you see fit. I am presumptively acting on behalf of the public interest. I believe that the Press has the same responsibility.

##### **2. JANUARY 15, 2006- I FORWARD BY EMAIL THE FOLLOWING ATTACHMENT:**

Just an update on my attempt to get some answers on my concerns and questions re: funding of the Diocese.

Attached is my response from Pierre Dumais on my concerns and questions in his email to me of January 11, 2006, and my response to his email of January 15th, plus my email to Jim Brownell requesting that the Attorney General withhold funding to the Diocese until such time as satisfactory answers are received to my concerns and questions. (I believe that the Attorney General has the final say regarding funding ).

I believe that my attached email documents to Pierre Dumais and Jim Brownell will provide the necessary background to the status of my requests.

I regret that I am not receiving any answers to my concerns and questions. I believe that the Public has a right to know on what basis funding was provided the Diocese.

### **3. JANUARY 17, 2006- I FORWARD COPY OF EMAIL RECEIVED FROM PIERRE DUMAIS**

My apologies for calling you Mary.

See attached.

“Ken, I now have been able to open your e-mail. I am not avoiding your questions as you indicated but rather I am advising you that I do not know what else to add. You obviously disagree with the Commissioner's decision and certainly you are entitled to your opinion. The fact that the Diocese is a religious institution has no bearing on whether or not they should have been granted standing or funding. That is not the test and that is why I invited you to review our Rules to review what the tests are. The "Roman Catholic canon law" which you refer to simply explains the financial structure of the Diocese. Nowhere is it indicated by the Commissioner that it "supersedes Ontario law". The fact that a party faces civil or criminal lawsuits is not part of the test either. The test is as indicated in par. 59 and I quote "where in the Commission's view the party would not be otherwise able to participate in the Inquiry without such funding". Again in answer to your question 3, the fact that this party represents a specific religion has no bearing on the legal test for being granted funding. With respect to the financial records, my recollection is that they were filed with the Commission as an exhibit to the Diocese's submissions. I don't know what to answer to your suggestion that the Commissioner did not satisfy himself of the veracity or accuracy of the records. It is an assumption you are making and I don't know what else to add. I understand that all of these questions are important to you and hopefully I have been able to address your concerns. As indicated in my last e-mail I would be pleased to meet with you if you wish to discuss the matter further. Pierre “

Dumaisemail2

### **4. JANUARY 21, 2006- I FORWARD TO TERRI SAUNDERS A COPY OF MY EMAIL TO JIM BROWNELL WHICH INCLUDES MY EMAIL TO PIERRE DUMAIS OF JANUARY 15, 2006**

See attached.

On December 23<sup>rd</sup> last you telephoned me advising that I would find answers to my concerns and questions, as outlined in my letters of December 8<sup>th</sup> and 9<sup>th</sup>, 2005, on the Commission's website. On January 3<sup>rd</sup> and 5<sup>th</sup> I responded that I did not find any answers on the Commission website to address or satisfy my concerns, or answer my questions of December 8<sup>th</sup> and 9<sup>th</sup>, 2005.

In your email of January 11, 2006, rather than answer my concerns and questions, instead again request that I look at the same Commission website to find the answers to my same questions and concerns.

I, as you suggested, again reviewed the website information, and continue not to find any reasonable explanation or justification for funding of the Diocese. On my review, I particularly noted, the most troubling and shocking aspect was the Judge's revelation, based upon the report of Reverend Morrissey, that he was "for one clearly in the dark" as to the

affect of Roman Catholic canon law related to its finances, on the Diocese's ability to underwrite its expenses at the Enquiry- the impression given, is that it is Roman Catholic canon law, Judaic law or Sharia law, that is the governing force in Ontario jurisprudence. The Judge goes on to say, I again quote, " that this Inquiry is not about conventional wisdom, but the facts", suggesting that Roman Catholic canon law on financial matters are the facts. The Judge's statements are tantamount to the declaration that Ontario is a theocracy. I find such admissions and statements beyond disbelief.

I respectfully submit that your continued avoidance to address my concerns and answer my questions, but repeatedly state that I will find answers to my concerns on the Commission's website is tantamount to admission that you are unable to address my concerns, or answer my questions, otherwise most reasonable persons would have done so. I am not an unreasonable person, but I expect reasonable answers, not the continued stonewalling of my requests. I would expect more from the Commission staff and Judge, but based upon my responses to date, can only conclude that there is a serious problem of competence.

I have submitted all my correspondence to the Commission to the local member of parliament, and I am now requesting that the Attorney General withhold funding from the Diocese until such time as satisfactory answers are received to my concerns and questions. So that there is no misunderstanding, I repeat the questions from my letter of January 5<sup>th</sup> last, and add one additional question related to the Judge's comments on his decision to grant funding to the Diocese. I will begin with that question.

1. On what basis does the Judge feel that Roman Catholic canon law in financial matters supersedes Ontario law, and must be used as a basis for his decision to grant funding to the Diocese, and shift that burden to the public sector?

2. What other cases in Ontario, where the party was the subject to both civil and criminal lawsuits, received funding, in order to explain away its actions, and if so under what conditions was such funding provided?

3. In what other cases in Ontario has a specific religion received funding from the public treasury, in order to explain away its actions, where it was the subject of both civil and criminal lawsuits, and if so under what conditions was such funding provided?

4. Assuming that the above three conditions were met in this case, why did not the Commissioner inspect the financial records of the Diocese to determine the legitimacy of its request. ( I do not need to remind the Judge that religion is big business, and there is ample record of big business misrepresenting its financial statements to the detriment of the public at large. This is not to suggest that the diocese has done so, only that it is incumbent on the Judge to personally satisfy himself before making his decision. )

This is my final fourth request, as a private matter, seeking that you address my concerns and answer my questions, so that this matter can be resolved amicably.

DIOCESESUMMARY2

**5. ON MARCH 1,2006, I FORWARDED AN EMAIL TO TERRI SAUNDERS OF THE STANDARD FREEHOLDER, UPDATING HER ON MY FURTHER COMMUNICATIONS WITH THE COMMISSION AND THE GOVERNMENT, REQUESTING CONFIRMATION OF RECEIPT OF MY EMAIL, AND ENQUIRING**

**IF THE STANDARD FREEHOLDER HAD ANY INTEREST IN THE MATTER.**

“Obviously they have a duty to respond to my requests. The story now is not my attempt to get answers on justification of funding for the Diocese, but as to how the Commission and Government have dealt with my requests. I will keep you posted on any further developments.

As I have had no confirmation of your receipt of my communications to date, would you please confirm the receipt of this communication, so that I will know that you are being informed.

If the Freeholder has no interest in the matter, please also advise, so that I can make alternative arrangements.”

**6.MARCH 11, 2006- MY EMAIL TO TERRI SAUNDERS REQUESTING FOR THE SECOND TIME CONFIRMATION OF RECEIPT OF MY EMAILS, AND ADVISING THAT UNLESS I HEARD OTHERWISE I WOULD ASSUME THAT THE S/F HAD NO INTEREST IN THE MATTER.**

“On March 1, 2006, I forwarded to you an update document by email, of copies of my communications with the commission and Jim Brownell, attempting to get answers justifying funding of the diocese. In the march 1st email I made the following request:

**“As I have had no confirmation of your receipt of my communications to date, would you please confirm the receipt of this communication, so that I will know that you are being informed.**

**If the Freeholder has no interest in the matter, please also advise, so that I can make alternative arrangements.”**

I have further communications from the Commission and the local MPP . Unless I hear from you otherwise, I will assume that the Freeholder has no interest in the matter.”

**7. APRIL 20, 2006- I LEAVE A VOICE MAIL MESSAGE WITH TERRI SAUNDERS REQUESTING TO SPEAK TO HER IN ORDER TO CLARIFY WHY THE S/F HAD NO INTEREST IN THE MATTER WITH NO RESPONSE**

**8. APRIL 25, 2006- I RECALLED TERRI SAUNDERS A SECOND TIME AND LEAVE VOICE MAIL MESSAGE ENQUIRING AS TO HER REASONS FOR NOT RESPONDING TO MY EMAILS . AGAIN WITH NO RESPONSE**

**9. JUNE 28, 2006- I ADVISE TERRI SAUNDERS OF THE FOLLOWING:**

“Attached for your information is copy of application for Standing for the Cornwall Public

Inquiry.

For your information I will be tabling all my communications to and from the Commission, Government and Standard Freeholder, as exhibits, as a basis of reference to my application, noting that the Cornwall Standard Freeholder did not acknowledge, or show any interest in my concerns, that the Judge provided no reasons for funding of the Diocese.

I am attempting to resolve the matter, without any negative reference to the parties and individuals.”

**H.K. MacLennan/ Application for Standing and Funding/July 19, 2006**

## ORAL STATEMENT

Thank you, Your Honor, for your openness in considering my request. I am acting as a private citizen, presumptively on behalf of the people of Ontario, in the interest of justice.

I am here, as you approved funding for the Diocese, without reasons, at Hearing on December 6, 2005, and made your recommendation to the Attorney General on December 12, 2005, without reasons, and the Attorney General accepted your flawed recommendation. (I note that I am acting in the absence of true, full and complete copies of your recommendations for funding of the various parties, which I requested on July 4<sup>th</sup> last, and cited in my filing of July 19<sup>th</sup> last.)

I will not revisit my written record outlining my difficulty in securing reasons, when there were no reasons, including requesting that you seek advice on your decision, and my request through the local MPP, that the Attorney General withhold funding until my concerns were answered.

I want to make it clear, that I have no objection to the funding of the Diocese. My objection is, that to the best of my knowledge, no reasons were given for any of your funding recommendations, but in particular the Diocese, which was a special case, as you originally rejected funding, and you later changed your mind. Therefore, in my view, it was compelling that you should have provided reasons.

The only reasons I found for the funding of the Diocese were from your comments on Roman Catholic canon law, which you described, as not being of conventional knowledge, but the facts. Obviously Ontario is not a theocracy, where decisions are based upon religious law, whether it be Islamic, Judaic or Christian.

Not providing reasons was a tacit acceptance by you of Mr. Sheriff-Scott's argument's, that funding was necessary because of Roman Catholic canon law, and that the Diocese was similar to the Association of Municipal Organizations (AMO) in the Walkerton water example. Both in my view are not supported by logic or reason.

My substantial and direct interest, Your Honor, therefore, is for two reasons. First, to speak of the need, under the current test, to provide reasons for your funding recommendations, and secondly, as it is impossible, in my view, to devise a fair and equitable test, to recommend that in future Inquiries, a means test be not required for funding, for reasons as outlined in my written submission.

The crux or heart for my appearance to-day is, under the current test, the need to be transparent and accountable, in the making of your funding decisions. Fundamental to any recommendation is the disclosure of the evidence or reasons, upon which it is based. Without citing the evidence, you fail to be transparent, and failing to be transparent, the public is unable to ascertain if you have been accountable in your decision.

The test for funding under section 10 of Order in Council, and para 59 of Rules of Practice and Procedure, by definition requires reasons. Let me quote:

**"where in the Commission's view the party would not be otherwise able to participate in the Inquiry without such funding"**

To make this determination, notwithstanding your broad discretion, implies some measuring device to make that decision, and disclosure as to why a party qualified for funding, based upon that measuring device. As the government did not provide you with this measuring stick, and you did not devise one, therefore, even if you did give reasons, they would have been meaningless. The fact, under the current test, that your reasons may have been meaningless, however, is not a reason for not providing reasons. In fact your failure to provide reasons, could be considered as an admission, that you agree with me, that they would be arbitrary and meaningless.

As a result of my review of the current means test for funding decisions, I concluded for reasons in my written submission, that there is no logical, or reasonable test, that can be devised, fair to all parties. Therefore, in my view, the government should do away with the current means test, and fund all parties, as the imposition of the Inquiry by the government, imposes an unfair financial burden on all parties, and in particular, for the accused, as in their cases, it may be likened to double jeopardy.

As this flawed test, and the impossibility of devising any future test, caused me great concern, as a matter of conscience, I made my three recommendations, as outlined in my written presentation- first, to do away with the existing means test; second, to publish, because of the potential to distort or misrepresent my concerns, my full written presentation on your website; and thirdly, that you clarify your position, because of your comments at time of Hearing on December 6, 2005, as to the role Roman Catholic canon law may have, or may not have played, in your funding decision, so that any possible perception of the victims, of your bias in favor of the Diocese may be removed.

My presentation to-day is intended to be constructive. My concerns are minor, however, when compared to the work of the Inquiry. Having failed to solve my concerns privately, I now feel compelled to report publicly, as the public has the right to know how our public institutions perform, and this can only be done through a responsible press, as a guardian of the public interest. I thank you and commission staff for the opportunity to present my recommendations. Pierre Dumais, in particular, admirably withstood the brunt of my questioning, and has been most gracious and patient in putting up with my persistence in seeking answers.

**H.K. MacLennan/Application for Standing and Funding/ Cornwall Public Inquiry/Wednesday, July 26, 2006**