CORNWALL PUBLIC INQUIRY

WRITTEN SUBMISSIONS
ON BEHALF OF
FATHER CHARLES MACDONALD
PHASE 1

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WRITTEN SUBMISSIONS ON BEHALF OF
FATHER CHARLES F. MACDONALD
PHASE I

INTRODUCTION – THE RULE OF LAW v. THE RULE OF MAN

THE RULE OF LAW

Canadian Charter of Rights And Freedoms

"Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

Guarantee of Rights and Freedoms

1. *The Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Legal Rights

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

11. Any person charged with an offence has the right

(b) to be tried within a reasonable time;

(d)to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;

THE RULE OF MAN

DUNLOP: The paramount thing is that we need to protect our children no matter what. At all cost.

NARRATOR: No matter what the rules say.

DUNLOP: No matter what the rules say. Throw the rule book out.

(Exh. 649 – CBC – The Fifth Estate – December 12, 1995)

THE MANDATE – IN FACTUAL CONTEXT

In its decision of January 18, 2008, the Ontario Court of Appeal encapsulated the mandate of the Cornwall Public Inquiry thusly:

> …the legislature sought to have the Commissioner investigate the institutional response to allegations of historical sexual abuse of young people in the Cornwall area by persons in authority or positions of trust and recommend ways in which those institutions could better respond to this type of allegation.

In so delineating the Inquiry's mandate, the Court relied upon the following factual context in which the Inquiry was created:

- a clan of pedophiles allegedly operated in the Cornwall area for a very long period of time;
- prominent local citizens allegedly conspired to cover up the activities of the clan of pedophiles; and
- Project Truth and the prosecutions it spawned failed to generate satisfactory results and a cloud of suspicion and mistrust continues to hang over the citizens of Cornwall.

OPP v. The Cornwall Public Inquiry [2008], O.J. No. 153 (O.C.A.)

Although the mandate of the Inquiry is to be a focus on institutional response, the term, "institutions", refers to various organizations that existed in the Cornwall community at the relevant time. The institutional component, qua institution, would be reflected in whatever policies, procedures and practices had been developed over time, intended to inform or guide the responses of each relevant institution to allegations of child sexual abuse. It should be noted, however, even though perhaps obvious, that institutions do not function in and of themselves; their "functioning" is that of the

individuals that held various positions within the institutional structures. This may have some significance in terms of what findings are permissible about particular individuals, given paragraph 7 of the Inquiry's mandate in the original Order in Council: "The Commission shall perform its duties without expressing any conclusion or recommendation regarding the civil or criminal liability of any person or organization."

THE CHANGING TIMES AND HINDSIGHT

As reflected by the evidence heard during the corporate presentations, the responses of various institutions to allegations of child sexual abuse have evolved markedly, one could say in almost a revolutionary way, in the 40 to 50 years that have been scrutinized during this Inquiry. Substantive criminal law has been significantly re-structured, with new offences created to respond to perceived gaps in the Criminal Code, specifically focusing now on sexual offences against children involving abuse of authority or trust; the concept of "consent" has also been revised, through both statutory changes and judicial decisions. The law of evidence, particularly as related to children, bears scant resemblance to the principles of evidence in the era from 1960 to 1990. Courtroom procedures have changed radically – video statements, protective screens, support persons and testimony by remote video are only some examples. There have been comparable changes in how police forces handle complaints by young persons, as well as significant changes to the Crown Policy Manual as it relates to such cases.

Having noted the above legal and policy changes, which could assist and inform any recommendations in the Final Report of the Commission, very few would apply to

the actual mandate of the Inquiry and its factual matrix". That is because, of course, the matters under review are all historical, when the former principles of substantive law, evidence and procedure all were in force. Hindsight is rarely a useful, or fair, prism through which to pass judgement on the conduct of institutions and that of their individual members. And the evidentiary record is seriously comprised, because essential evidence was incomplete—or never heard.

LINKAGES AND MISSING LINKS

In a very real sense, the "Cornwall Story" is the combined stories of David Silmser, Perry Dunlop, Ron Leroux, Garry Guzzo and to a somewhat lesser extent, Richard Nadeau. The "factual matrix" of the Inquiry, referred to above, is "the clan", "the cover-up" and the so-called "unsatisfactory" results of Project Truth; all three components are inextricably linked and are founded upon the above five main players. Only one, Mr. Guzzo, testified here and was available for full cross-examination on his role. Mr. Nadeau is deceased. Mr. Leroux and Mr. Silmser failed to complete their evidence; Mr. Dunlop contemptuously denied this Inquiry—and the Cornwall community—the full explanations that both were entitled to hear and weigh.

With the assistance of his inexperienced, misguided lawyer, using the ever-evolving, unchallenged and uninvestigated inventions of Ron Leroux, and deceitfully obstructing the work of Project Truth for close to three years, Perry Dunlop unleashed all three components of the factual matrix on this community. Only through this Inquiry was it revealed that he harboured his "ring", or "clan" theory as early as November, 1993.

He refused to substantiate it then , when asked by the CAS to come and to produce his purported notes, even when warned, ironically to say the least, of his "duty to report". He refused to substantiate it here, preferring jail to facing, finally, the numerous parties, persons—and the community—to whom he caused so much damage.

It is respectfully, but strongly argued that Mr. Dunlop's silence in the face of his former community speaks for itself—and should feature prominently in any Final Report. As retired Inspector Tim Smith said, he and/or his colleagues were investigating here in Cornwall from 1994 to the end of 2004 and found no clan, no conspiracy, no cover-up. **(Tim Smith, Vol. 312, p. 227)**. As former Inspector Pat Hall expressed it to Crown Attorney Lorne McConnery, he would not put his own hand on a Bible on the basis of Ron Leroux and would never have asked any of his colleagues to do so. **(Exh. 3050)**

It should be remembered that while Mr. Dunlop has testified in the past, with very negative judicial findings about him, his evidence was not heard and assessed in a vacuum by judges. In the case of Father MacDonald, for example, the trial judge heard from several senior officers, from two forces, about his deceitful, obstructive conduct **(Exh. 227, paras. 52 & 53)**.

He and his followers lobbied hard for a full-scale, outside police investigation. He was even offered a role as a "coach", if necessary, even though he was in an obvious conflict of interest, given his lawsuit. He and Mrs. Dunlop were criticizing the OPP when their work had barely started. **(Pat Hall – Vol. 223, pp. 61-2)**. He broke every

promise to co-operate; he disobeyed formal disclosure orders; contrary to direct orders, he, together with Mr. Guzzo, spoke with and manipulated the media with falsehoods that undermined the work of Project Truth (**Exhs. 992, 2845, 2846**); he deliberately withheld relevant evidence and lied, under oath, about doing so. Rather than assisting OPP efforts to investigate allegations of child sexual abuse, he, with Mr. Guzzo, hampered those efforts **(Pat Hall – Vol. 223, p. 192)**. He failed to testify here not because he "lacked faith in the justice system"; rather, it was because he knew that his conduct would be explored, and exposed, for the entire community to finally understand.

DAVID SILMSER – "FOR STARTERS"

To understand where Cst. Heidi Sebalj and S/Sgt. Luc Brunet ended up on the Silmser allegations, one need only look at Cst. Sebalj's notes for January 28, 1993 (**Exh. 314**), her dedicated notes (**Exh. 295**) and Mr. Silmser's written statement (**Exh. 262**). As S/Sgt. Brunet said, the discrepancies therein were not minor, but fundamental (**Luc Brunet**, **Vol. 214, pp. 13-14**). In addition, the entire premise that the alleged abuse had caused him to turn to crime was refuted by his own sister's statement that the St. Andrew's retreat, the first real episode of alleged abuse, happened in June 1973, when Mr. Silmser was already 15 and already on probation. This is of the essence of the "drilling down" that Murray MacDonald confirmed would lead an investigator to fall short of the necessary grounds ("RPG") (**Murray MacDonald**, **Vol. 327, pp. 148-154**). Her "unease" about Mr. Silmser was compounded by his stated, clear intent to "go after money", the ulterior financial motive referred to in Mr. MacDonald's letter (**Exh. 301**) to S/Sgt. Brunet (**Vol. 327, pp. 181-184 and Exh. 1421, p. 14**). As Mr. MacDonald

confirmed, the more the investigation went on, the less Cst. Sebalj believed Mr. Silmser **(Vol. 327, pp. 168-171**).

Mr. Silmser continually attempted to re-cast the facts. He tried to claim that he only took the settlement because he'd been told the case was over, which flies in the face of various documents and *viva voce* evidence, including that of S/Sgt. Brunet (**David Silmser, Vol. 85, pp. 80-81**). He even attempted to suggest, at the Inquiry, that he never told the CPS to hold off on Ken Seguin (**Vol. 87, p. 148**). When the case came under further scrutiny, after the death of Ken Seguin, he first tried to attribute the lack of charges to the CPS, to S/Sgt. Derochie, **(Exh. 1302, bp. 7167719**) and then to the Crown, to S/Sgt. Brunet. The latter had to stop him, to correct him with the facts that he had stopped any charges. (**Luc Brunet, Vol. 214, pp. 36-39 & Exh. 1439**).

The conduct of Mr. Silmser throughout the 1994 review investigation by the OPP is documented in Inspector Smith's notes (**Exh. 1803**) and his evidence at the Inquiry. He regularly made threats of various kinds; he claimed to have up to four new "victims", but he and/or his lawyer produced none; he accused Det. Chris McDonell of being the cousin of Father Charles MacDonald; he refused to be re-interviewed once the OPP had learned of his ongoing dealings and correspondence with Father MacDonald, well after the alleged abuses (**Tim Smith, Vol. 312, pp. 211-213 & Exh. 2251**). And, of course, there is Mr. Silmser's apparent admission of fabrication in the presence of a witness, not only to his cousin Brian, in the spring of 1995, a witness who signed Inspector Smith's notes and had no "axe to grind" against David Silmser (**Vol. 312, pp. 213-216**).

The conduct of Mr. Silmser after the charges related to him were actually laid, in March, 1996, is well-documented, and well-described, by Mr. Justice Pelletier (**Vol. 342**). It is not difficult to understand why Mr. Pelletier described the decision to lay charges that included David Silmser, even with John MacDonald and C3, as one based on "the slimmest possible reasonable prospect of conviction" (**Exh. 228, p. 4**).

It should be further noted that when health issues precluded the continued cross-examination of Mr. Silmser, several important institutions had not yet even cross-examined him, including both police forces, Corrections and the School Board (re his allegations against Marcel Lalonde, on which he refused to cooperate).

The significance of Mr. Silmser's use of the phrase "for starters", to Msgr. Schonenbach on December 9, 1992, remained essentially unexplored by Commission counsel, who apparently preferred his reference to seeking "only" an apology (**Exh. 311**). The potential significance, however, based on common sense, did not go unnoticed very early on. For example, the relevance of the phrase "for starters" was not lost on the Church and on Father MacDonald's first counsel, as conveyed to Cst. Sebalj by Malcolm MacDonald, on February 25, 1993 (**Exh. 295, bp. 7063753**). The potential importance of the phrase was also acknowledged by witnesses such as Bishop Larocque (**Vol. 271, pp. 199-201**), Inspector Smith (**Vol. 312, pp. 257-58**) and Murray MacDonald (**Vol. 327, pp. 160-165**). As agreed to by each—"what else?"

PERRY DUNLOP – WHITE KNIGHT/SILENT KNIGHT

In relation to the conduct of Perry Dunlop from September 1993 to the end of June 2000, there are three instructive documents, all produced by S/Sgt. Gary Derochie. Those are his dedicated notebook for the Fall of 1993 (**Exh. 1293**), his dedicated notebook as liaison for the CPS with Project Truth (**Exh. 1325**) and his memorandum to Chief Repa as to the "wrongful dismissal" claim by Perry Dunlop (**Exh. 1398**).

S/Sgt. Derochie testified at length about the facts and issues described therein. It is obvious that for a considerable time, Mr. Derochie, an objective, thorough officer, had some sympathy for Mr. Dunlop and even agreed, initially, with his position—save for the intervention by Mrs. Dunlop with David Silmser (**Exh. 1293**).

By the Fall of 1999, when S/Sgt. Derochie replaced Inspector Trew as the CPS liaison with Project Truth, he realized that "enough was enough" , that Mr. Dunlop was becoming an embarrassment, was jeopardizing cases and had to be brought under strict control (**Exh. 1325**).

In late June, 2000, Mr. Dunlop resigned from the CPS, claiming constructive wrongful dismissal. S/Sgt. Derochie provided to Chief Repa a detailed, telling memo to the contrary, illustrating how the CPS did indeed "bend over backwards" to accommodate Mr. Dunlop. (**Gary Derochie**, **Vol. 209, pp. 131-138 and Exh. 1398**).

When Perry Dunlop told his friend, Richard Abell, about the David Silmser case, and the settlement, he "did the right thing" under the law; he acted pursuant to the "duty to report". Two tribunals so found; indeed, he should never have been prosecuted for speaking to Mr. Abell on the concerns he had. However, as with many things concerning Perry Dunlop, the surface story is not always the entire story. Even in making his initial disclosures to his friend, Mr. Abell, Mr. Dunlop made two significant "misrepresentations": that Cst. Sebalj had done no work on the Silmser file; and that Inspector Stuart McDonald, his own brother-in-law, had ordered that the file remain only "on paper" and not be placed in the regular internal system (**Richard Abell, Vol. 296, pp. 169-70**). Both assertions were false. Why were they made? Only the silent Mr. Dunlop knows. He obviously spoke with Cst. Sebalj—she gave him the statement and apparently told him about C56 & C3. Did she also tell him that she never established "R.P.G.", because she couldn't sufficiently believe David Silmser? That her supervisor, S/Sgt. Brunet, knew that? That Crown MacDonald knew that? Many contemporaneous documents establish those circumstances, documents created well before Mr. Dunlop's involvement, let alone Mr. Dunlop's allegations of widespread corruption in the Amended Statements of Claim (**Exhs. 673 & 673A**). When he 'threw Cst. Sebalj and Stuart McDonald under the bus', he was just getting started.

When Perry Dunlop shared the Silmser statement, with its personal co-ordinates, with his wife, he went too far. It was unacceptable that Helen Dunlop would repeatedly seek out David Silmser, based on confidential police information **(Gary Derochie, Vol. 209, pp. 108-09 & Exh. 1300)**. Very early in his internal investigation, S/Sgt. Derochie

concluded that Perry Dunlop perceived himself as a "white knight", one who could accept no criticism (**Vol. 209, p. 93 & Exh. 1293, p. 31**). Understandably, S/Sgt. Derochie was surprised at the over-reaction of Mr. Dunlop to the notion that, while he was being "investigated", he would only be "counselled" and the matter would be over.

The conduct of Mr. Dunlop ought to be assessed in the context of the "factual matrix" of the Inquiry—the "clan", the "cover-up" and the "unsatisfactory" results of Project Truth. In relation to the latter issue, certain suspects committed suicide; some accused died before trial; some charges were stayed for health reasons; some accused were acquitted (enough said); and two had their charges judicially stayed—Father Charles MacDonald and Jacques Leduc—almost entirely because of the misconduct of Mr. Dunlop, so found, not appealed and not reviewable here.

For many years, people probably assumed that Mr. Dunlop's "clan of pedophiles" theory arose with his 1996 lawsuit, through Ron Leroux. It is respectfully submitted that one of the most startling revelations through this Inquiry is the fact that Mr. Dunlop had this theory almost from the outset. It first appears in November, 1993, in the Project Blue notes of Greg Bell (**Bill Carriere, Vol. 287, pp. 45-48 & Exh. 2324)**. Although all of Mr. Dunlop, Mr. Bourgeois and Mr. Leroux have disclaimed authorship of the term, "clan of pedophiles", Richard Abell has confirmed that Mr. Dunlop "long talked about a clan of pedophiles", "very early in the whole matter" (**Richard Abell, Vol. 296, pp. 167-68**).

What Mr. Dunlop lacked was a vehicle to promote his theory. He managed to avoid the CAS, in late 1993 and January, 1994, never meeting, or producing his purported notes—because he had none. Although speculation, one has to wonder where this all would have gone if the CAS had "called" Mr. Dunlop on his theory, or if the CAS had advised the CPS that Mr. Dunlop professed to have this startling information.

Mr. Dunlop found his missing piece when C8 led him to Ron Leroux. Based on C8's allegations of sexual abuse by Mr. Leroux, Mr. Dunlop had Mr. Leroux in a corner and was able to cultivate his "clan" theory. From the "clan" came the "cover-up", the conspiracy, inserted immediately into the lawsuit, a lawsuit that was obviously launched initially with no prior "investigation", or factual foundation.

For the "clan" and particularly the "cover-up" to work, Mr. Dunlop <u>had</u> to implicate certain key players—the Chief of Police (Shaver), the Crown Attorney (Murray MacDonald), and the Bishop (Larocque). Remove any one, without a valid substitute, and the "house of cards" falls. And through the work of Project Truth, that is precisely what happened—the Bishop had an irrefutable, confirmed "alibi". Inspector Hall knew it; his investigators had confirmed it. Mr. McConnery finished the demolition of this absurd, but malicious, theory with his analysis and written opinion **(Exh. 1140**).

What should be noted, however, is how Mr. Dunlop inserted other players into the "clan" and the "cover-up", for no apparent reason than to add details and, it is submitted, to "settle some scores". He adds S/Sgt. Brunet, who had supervised Cst. Sebalj and who

spoke to him in an allegedly "threatening" way in September 1993. He adds S/Sgt. Brendon Wells, who conducted the investigation of David Silmser's complaint over the public release of his statement, which led to the charges under the Polices Services Act ("PSA"). He adds his own brother-in-law, Stuart MacDonald, who was the hearing officer on his earlier "deceit" charge and who was perceived as not being sufficiently supportive in relation to the 1994 PSA charges (**Stuart McDonald, Vol. 225, p. 152**). With his lawyer in tow, of all people, Mr. Dunlop, with his wife and Carson Chisholm, attended Stuart McDonald's home and called him a liar, among other things, apparently for protesting his innocence of the Leroux allegations (**Vol. 225, pp. 144-147 and Exh. 1572**). He even added Deputy Chief St. Denis, because he needed someone of influence at the CPS once Chief Shaver left, in January, 1994; and/or, because he had approved the PSA charges in 1994 (**Exh. 1574**). Mr. St. Denis soundly refuted the Dunlop allegations, as "hogwash" (**Exh. 1812**); however, he still suffered, like so many others, from the unfounded innuendo and finally had his "day in court" at this Inquiry (**Joseph St. Denis**,**Vol. 246, pp. 14-21 & Exh. 1487**).

If one returns for a moment to the "factual matrix" of the Inquiry—that a clan and a cover-up operated for a "very long period of time"—the absurdity of Mr. Dunlop's theory is even more obvious. For example, Murray MacDonald only became the Crown Attorney at Cornwall in 1992! His predecessor, Don Johnson, was the official Crown Attorney by 1974 and was essentially the Crown by 1972! How did the "clan" manage to control the justice system for those twenty years, 1972 to 1992, without the input of Mr. Johnson?

The essence of a cover-up is precisely that—concealment. As part of the events preceding the Silmser settlement, Malcolm MacDonald advises Murray MacDonald twice, before the settlement, that a settlement is in fact being discussed. (**Exh. 1233, pp. 28-30 & pp. 36-7**). After the settlement, Malcolm MacDonald delivers related documents to S/Sgt. Luc Brunet (**Exhs. 299 & 265**).

Why would two "co-conspirators", Chief Claude Shaver and S/Sgt. Luc Brunet, attend on Archbishop Curis and on Bishop Larocque, on October 7, 1993, to protest the settlement that was the very essence of the alleged "cover-up"? Why would two "co-conspirators", Chief Shaver and Deputy Chief St. Denis, instruct S/Sgt. Derochie to investigate the entire situation in October, 1993? Will the followers of Mr. Dunlop and other "conspiracy theorists" explain these questions away as some kind of "double reverse", to cover guilty tracks? This must stop!

Many otherwise-honourable, professional people were tarnished by the various versions of conspiracy and/or corruption pleaded by Mr. Bourgeois and Mr. Morris on behalf of Perry Dunlop (**Exhs. 673 and 673A**). Without exception, witnesses such as Brendon Wells, Luc Brunet, Joseph St. Denis and Stuart McDonald confirmed that they never even knew, or barely knew, Father Charles MacDonald, the priest that they allegedly conspired to protect. However, no protestation of innocence was more telling, more poignant than that of Murray MacDonald—"why would I protect a priest I never ever knew, when I helped to turn in my own father?" (**Exhs. 1233 & 2683**)

It should be noted that when called to testify before Chilcott, J., in May 2002, Perry Dunlop finally admitted, on the public record, that he had failed to do any kind of proper, careful, police-type investigation before putting into the public domain the malicious, reputation-destroying allegations against various people, including his justice-system colleague—and personal friend—Murray MacDonald—the local Crown Attorney (**Lorne McConnery, Vol. 335, pp. 201-208**) (**Evidence of Perry Dunlop – Exhibits 355 & 720**).

In addition, there is the question of C8 and how his evidence was, at the very least, "influenced" by Mr. Dunlop, leading to the fabrication of an entire story against Father MacDonald, with key details (the candles) that could only have come from Perry Dunlop or Ron Leroux, with Mr. Dunlop being the one who actually helped him to write what became his eventual police statements (**Exh. C-607**) on January 23, 1997. (**Pat Hall – Vol. 223, pp. 177-184**) (**Lorne McConnery, Vol. 335, pp. 174-185 and Exh. 3068).**

While it is true to say, as experts have testified at the Inquiry, that male victims of sexual abuse often have difficulty coming forward, there is a disturbing, "coincidental" pattern in the case of Mr. Dunlop's "private investigations". Each of Ron Leroux, C8, C15, Gerry Renshaw and Robert Renshaw came forward as direct "recruits" of Perry Dunlop, claiming to be "victims". Gerry Renshaw, Ron Leroux and C8 had given previous police statements (**Exhs**. **543A, 561, 562, 604**) that were either mainly neutral, or even supportive of persons such as Father MacDonald and Ken Seguin. That changed

when Mr. Dunlop entered the picture. In the case of C15, he fabricated a story against Father Kevin Maloney, placing him in Alfred when he was never there; C8 fabricated an entire story about Father MacDonald and part of a second one, in relation to Marcel Lalonde. Robert Renshaw used to hang out constantly at Ken Seguin's house in Summerstown, together with his brother, Gerry, a "friend" of Mr. Seguin's (**Exh. 2721 – Statement of C99; Evidence of Det. Steve Seguin – Vol. 315, pp. 51-55**); then they became "victims" of Mr. Seguin. In addition—and not coincidentally—all, save C8, became plaintiffs. The taped interviews of Robert Renshaw (**Exh. 348**) and Gerry Renshaw (**Exh. 551**) by Mr. Dunlop, would be considered an embarrassment to any professional police investigator, replete as they are with leading questions.

RON LEROUX – PROTECTED PEDOPHILE

Because of the information he had from C8, Mr. Dunlop had a lever with which to approach Mr. Leroux. There is no written record of how Mr. Leroux was initially approached. Mr. Bourgeois apparently recalled little of anything when he testified at the Inquiry, in 2007; Mr. Dunlop refused to testify. What the public record contains is the evidence in chief of Mr. Leroux and a partial cross-examination by Professor Manson, none of which is flattering to Mr. Bourgeois and Mr. Dunlop. However, what we do have is the evidence and fabricated allegations of C8, whose description of how Mr. Dunlop manipulated him closely resembles the partial evidence of Ron Leroux.

Of further importance is the fact that Mr. Bourgeois is constantly in the picture with Mr. Leroux, including at Orillia, the first OPP interview. That interview, on

February 7, 1997, is some two weeks after Mr. Bourgeois had taken C8, also his client, to see the OPP in Lancaster, with two prepared statements, one for Father MacDonald, one for Marcel Lalonde—none for Ron Leroux, the person about whom C8 first approached Perry Dunlop and really wanted to complain about. The conflict of interest is obvious. It is submitted that it was essential to Mr. Dunlop's "cause" that Mr. Leroux be downplayed as a perpetrator.

The story of Mr. Leroux, the essential and sole foundation of "the clan" and "the cover-up", had to include, among others, Bishop Larocque. Fortunately for so many, the Bishop was elsewhere. How does the Bishop make it into Mr. Leroux's story of the "VIP Meeting"? After careful investigation by Project Truth, the "VIP Meeting" was found never to have happened, a conclusion confirmed by a respected, experienced Crown Attorney, Lorne McConnery. Mr. Leroux was able, somehow, to provide lush details about the arrivals of all the key players, personally observed by him. The names all eventually appear in his statements and in **Exh. 673**. But it never happened—the Bishop was elsewhere. How did Mr. Leroux know what persons to name, to make "the cover-up", the obstructionist conspiracy, "have legs"? He adds Chief Shaver, Crown Attorney MacDonald—and the Bishop. At the very least, those three were essential to Mr. Dunlop's theory of what happened in the prelude to the Silmser settlement. How did Mr. Leroux know to add other interesting names, as discussed earlier, such as Luc Brunet and Stuart McDonald? Fortunately for the community of Cornwall—not to mention the wrongly-accused "conspirators"—Professor Manson's cross-examination got to where it did. The Inquiry—and this community—never heard, and will never hear Mr. Dunlop's

explanations for how Mr. Leroux said what he did, how Mr. Leroux's versions continued to evolve.

It is an interesting exercise to compare, for example, the Leroux statement of October 31, 1996 (**Exh. 564**) with the notes of Helen Dunlop of her telephone conversation with Charles Bourgeois from Maine, on October 30, 1996 (**Exh. 712**). The "evolution" of the Leroux story is obvious, as are the numerous false assertions in Exh. 564, such as the Ken Seguin written confession (para. 35). In Exh. 712, written in the late afternoon of October 30, 1996, the pivotal, all-important "VIP meeting" does not appear; it appears the very next day, in Exh. 564. There are no detailed, police-type notes, by Perry Dunlop or Charles Bourgeois, for any of this.

GARRY GUZZO – MISGUIDED, OR UNRESTRAINABLE OPPORTUNIST?

There are, essentially, two versions of the role of Mr. Guzzo, lawyer, former judge, former legislator—his own evidence and that of the OPP, through Inspectors Smith and Hall and Deputy Commissioner Lewis, together with the evidence of Murray Segal (**Vol. 345**).

The evidence of Mr. Guzzo began with the strange story of his notes, with the many obliterations and most bizarrely, the use of pseudonyms for pseudonyms. For most witnesses, those circumstances would be enough to undermine credibility. However, there are also the letters he wrote- **Exhibits 983, 984, 985, 1008 and 1025**. Mr. Guzzo was cross-examined at some length, particularly by counsel for the Diocese, for Father

MacDonald and for the OPP (**Vols. 182 & 183**). Suffice it to say, he did not fare well, it is submitted. On numerous occasions, he acknowledged that things he wrote, or said to the media, or said in the Legislature were wrong. Virtually all of his mistakes were avoidable, either by checking his "facts" before writing or publicly speaking, or by accepting the accuracy of what the OPP not only told him, but actually showed him, especially on November 22, 2000, with Inspector Hall and Deputy Commissioner Lewis.

One might say that Mr. Guzzo "couldn't take yes for an answer". Unfortunately, it is submitted that the real answer is that Mr. Guzzo, at the very least, believed that the "end justifies the means". How else, being generous, does one explain, as only one example, Mr. Guzzo's outrageous statements to the Legislature (**Exh. 1011**) about the infamous destroyed videos in June, 2001, some seven months after he actually saw the OPP file related to that issue, including Mr. Leroux's quit claim deed and the destruction records. Only to be followed, when pressed by Inspector Hall **(Exh. 1013**) at the urging of Mr. McConnery, with his abject admission that he had seen nothing (**Exh. 1012**), having said the opposite in the Legislature—and having testified at this Inquiry that he saw a film in the purported possession of a known person, C39 **(Garry Guzzo, Vol. 183, pp. 76-85)**

To appreciate the significance of what Mr. Guzzo did—publicly accusing the OPP of possibly province-wide incompetence and/or cover-up—one need only compare what he said in his various filed letters and media quotations (**Exhs. 1005, 2845, 2846, 2847 & 2903**) with the factual reality, as found in the notes of Inspector Smith (**Exh. 1803**), the

evidence of Inspector Hall (**Vol. 223**), Deputy Commissioner Lewis(**Vol. 325**) and Murray Segal (**Vol. 345**), and the numerous other police notes and documents filed here as exhibits.

Mr. Guzzo began his public campaign, his political campaign, in September, 1998, with **Exh. 983**, the letter to Premier Harris, as he then was. A few weeks earlier, he had received the Dunlop briefs. If one looks at his various letters, one has to wonder how he could say much of what he said, in view of the fact that much of what he says is even at odds with the contents of the Dunlop briefs.

It should also be remembered that Mr. Guzzo, like Mr. Dunlop, made sure that copies of their various documents reached Richard Nadeau, through whom they received widespread dissemination—to the detriment of so many, including innocent priests, probation officers, police officers, the Cornwall Police Service, the OPP and the reputation of the entire Cornwall community.

Mr. Guzzo made a point of asserting, more than once, how proud he is of his role in helping to bring about this Inquiry. It is true that Mr. Guzzo may well have had some hand in so doing—but at what cost?

FATHER CHARLES MACDONALD – RESPONSE OF THE CPS, 1993

Before the events of the Silmser settlement intervened, Cst. Heidi Sebalj, supervised by S/Sgt. Luc Brunet and assisted by Murray MacDonald on occasion, had

essentially concluded that she lacked the essential subjective belief in the allegations of David Silmser to warrant any charges. Ironically, to say the least, that might well have been the end of the story.

Her investigation essentially stopped around the end of April, 1993. For reasons of resources, training programs and perhaps some inexperience, the case stalled. However, when one looks at her notes (**Exh. 295**), she conducted a significant number of interviews, with many relevant witnesses. Contrary to what Mr. Dunlop told Mr. Abell, this was hardly a case of "no work done".

What is important to remember—much to Cst. Sebalj's credit—is that she clearly "drilled down" into the case, to borrow Murray MacDonald's phrase. In spite of what she had heard from C3 and C56, she well understood that she <u>first</u> had to form a proper subjective belief in the believability of Mr. Silmser—and she never did. Many documents, including her notes, the Crown brief and the 1994 OPP witness interviews of S/Sgt. Brunet and Murray MacDonald, confirm her ultimate conclusion and the bona fides of it. All these materials existed <u>long before</u> Mr. Dunlop went public with his allegations of cover-up—in 1996—and long before any intimation of a public inquiry. Among the many victims that Mr. Dunlop 'threw under the bus' is Cst. Sebalj, her career and health ruined. All she did was apply properly the <u>constitutional protection</u> of "reasonable and probable grounds", as confirmed by Murray MacDonald (**Vol. 327, pp. 143-44**).

There is one aspect of the CPS response, however, that must be considered further. That is the decision by Chief Shaver to intervene, accompanied by S/Sgt. Brunet, with the Archbishop in Ottawa and with Bishop Larocque, in October, 1993. According to Deputy Chief St. Denis, the letter from Murray MacDonald to S/Sgt. Brunet (**Exh. 301**) was discussed at the morning meeting of September 16th, 1993. He believes that Chief Shaver was probably present and, in any event, he forwarded the letter to Chief Shaver that day, who forwarded it to the actual addressee, S/Sgt. Brunet (**Joseph St. Denis, Vol. 246, pp. 3-7**). Mr. MacDonald clearly refers to the fact that Cst. Sebalj had failed to reach the essential "R.P.G."; S/Sgt. Brunet already knew that. In cross-examination, S/Sgt. Brunet acknowledged the importance of the presumption of innocence and the fact that Cst. Sebalj lacked the requisite grounds to lay a charge. When asked how to reconcile those two factors with the attendances on the two senior clerics, his response was that there had been "inappropriate behaviour", that "should be dealt with" (**Luc Brunet, Vol. 214, pp. 47-8**). Bishop Larocque was made aware that the police had information related to three complainants, not only Mr. Silmser; however, he did not believe he was told that the police did not have grounds to lay charges against Father MacDonald (**Bishop Larocque, Vol. 271, pp. 234-36**).

Based on Father MacDonald's subsequent admission of sexual activity to the Bishop, some intervention was appropriate on a Canon Law basis alone. However, the above circumstances illustrate that the notion of "informing the employer" is more complex than may appear at first blush. This proposed response triggers significant issues of Charter Rights, basic principles of criminal law and issues of privacy and

employment law. It should be approached very carefully, particularly where the allegation is as sensitive and emotive as that of child sexual abuse—a genie not easily "put back in the bottle".

FATHER CHARLES MACDONALD – CAS RESPONSE – NO INPUT, NO CHANCE

The response of the CAS to the Silmser allegations against Father MacDonald was Project Blue, led by William Carriere, who "called the shots", not Mr. Abell (**William Carriere, Vol. 287, p. 25**).

In his cross-examination, Mr. Carriere disagreed with the suggestion that Father MacDonald's fate was sealed with the CAS at the very first meeting of September 30, 1993, or by no later than November 2, after Greg Bell interviewed Mr. Silmser (**Vol. 287, pp. 110-11**). With great respect, if one looks at various passages in the interview of Mr. Silmser by Greg Bell, on November 2nd, 1993 (Exh. 270), it is submitted that the underlying premise, on various pages, is that Mr. Silmser was, in fact, a victim of sexual abuse: "Well the system obviously failed you at the time – when – when you needed it" (p. 9); "I can tell you we have stopped this kind of thing before…"(p. 13); "we have the authority to put a stop to it…that's part of the healing process for someone like you too" (p. 26); "But, but I can tell you for sure, they—they won't beat this…"(p. 32); "They're powerful people and powerful people may be sometimes in a better position to look for all the loopholes, or all the technicalities, so they can beat the system" (p. 32); "…part of what we need to know is how these things are covered up. Because this isn't—this isn't where this is going to stop" (p. 38).

That same day, after this interview, Mr. Bell reports to Mr. Carriere that Mr. Silmser "seems credible" and the only alleged perpetrator actually discussed was Father MacDonald **(Exh. 2324, p. 42**). This follows on the initial meeting of September 30, 1993, where a CAS group, led by Richard Abell, agrees, based on a bare written statement (Exh. 262), as follows: "presents as a highly creditable statement—very likely there was other abuse of Silmser not mentioned in the statement—likely other victims—good possibility of present abuse of children by Charlie MacDonald". (**Exh. 1441, bp. 7080664**).

After a lengthy, detailed investigation at St. Andrew's Parish, where Father MacDonald was posted from 1988 to 1993, not one untoward allegation was made. Mr. Carriere did admit that the "verification" meeting and decision, with a "finding" that Father MacDonald had abused Mr. Silmser, took place with no real input from Father MacDonald, save for the "emphatic No" on the CAS letter inviting him to respond (**Exh. 2249**). He further admitted that Malcolm MacDonald, more than once, asked CAS to keep the file open and offered Father MacDonald for an interview, an offer that was never pursued (**Vol. 287, pp. 60-6; 79-84; 87-8, 100**). He further acknowledged that Father MacDonald had never "declined" to meet with CAS. He further acknowledged that the CAS knew of the OPP interview of Father MacDonald, in June 1994, and of relevant documents about Mr. Silmser, none of which they obtained (**Vol. 287, pp. 93-95**).

Of particular interest is the fact that CAS sent a copy of their "findings" to both the CPS and OPP (**Vol. 287, pp. 60-63).** In response to the Commissioner, Mr. Carriere admitted that there was no protocol to do this, it was not a common practice and he could think of no other case where it was done (**Vol. 287, pp. 74-77**).

Because of the passage of time, Mr. Carriere could no longer recall if he and his colleagues were advised by Cst. Sebalj and S/Sgt. Brunet, at an October 21st meeting to review the CPS file, that Cst. Sebalj did not sufficiently believe Mr. Silmser so as to form "R.P.G.". It is respectfully submitted that it is almost inconceivable that this fact never came up. Even Mr. Abell acknowledged that by October 21, 1993, he knew that Cst. Sebalj had never formed "R.P.G.", that Malcolm MacDonald had told the Crown of the pending settlement and that Mr. Dunlop's assertion of "no work done" was false (**Richard Abell, Vol. 296, pp. 172-75)**. Mr. Abell further acknowledged that CAS received Malcolm MacDonald's letter, with Father MacDonald's "emphatic No", with a clear statement that Father MacDonald could not , not would not, attend to meet with CAS. (**Vol. 296, pp. 183-87 and Exh. 2490**). This was before the "verification" decision and the letters to Father MacDonald, Mr. Silmser, the OPP and the CPS.

During Project Blue, Greg Bell kept detailed notes, which he generally shared at "supervisions", or team meetings (**Exh. 2324**). It is in those notes that one finds the startling assertion of a "ring of pedophiles" by Perry Dunlop, with Malcolm MacDonald as an alleged member (**pp. 119-20**). There then follows a number of unsuccessful attempts to secure Mr. Dunlop's co-operation, including to see his purported notes, with

even a warning to him about his "duty to report" **(pp. 173-4; pp. 184-5; p. 189**). By January 21st, 1994, a decision was made not to pursue the matter further (**William Carriere**, **Vol. 287, pp. 45-8; Richard Abell, Vol. 296, pp. 154-5)**. Mr. Abell never raised it with his friend, Mr. Dunlop, when he visited him in early 1994, because it was a "social visit" and he would have been "stepping outside his role" (**Vol. 296, pp. 152-3 & 154-5)**. Somewhat surprisingly, Mr. Abell asserted that Inspector Smith, in 1994, had information of an alleged pedophile ring because of media coverage! (**Vol. 296, p. 156**). It is unknown what media coverage he means, in 1994; he may be confusing it with the coverage of Mr. Dunlop and his lawsuit some two years later, from 1996 on.

Mr. Abell further acknowledged in cross-examination that the CAS received the "Fantino Brief" in May, 1997, which included the Leroux documents and allegations against named clergy members. These new allegations did not generate a CAS investigation like the one conducted in relation to Father MacDonald **(Richard Abell, Vol. 296, pp. 192-93)**.

These two particular issues, the differential treatment of Father MacDonald and the non-pursuit of Mr. Dunlop's "ring" allegation, are perhaps explained by Mr. Carriere. In relation to the former, in spite of the December, 1994, OPP press release, stating that no grounds existed to charge Father MacDonald **(Exh. 1000**), the CAS made its decision on the basis of a different, lower standard (**William Carriere**, **Vol. 287, pp. 105-109**). In relation to the latter issue, Mr. Dunlop's "ring", Mr. Carriere, the leader of Project Blue, agreed that CAS may well have been simply sceptical. As he said, 'we wondered"

(**Vol. 287, pp. 45-48**). The first explanation, a different,lower standard, does not explain the failure to allow Father MacDonald his input; nor does it explain why two agencies, CAS and the OPP, looked at the same matter and arrived at such opposite conclusions, an outcome that understandably left Bishop Larocque "perplexed" (**Vol. 271, p. 213**). In addition, the OPP, to the knowledge of CAS, had interviewed Father MacDonald and had received relevant documents on the issue of Mr. Silmser.

FATHER CHARLES MACDONALD – OPP RESPONSE (1994) – NO "R.P.G."

The conduct of the 1994 OPP re-investigation of Father MacDonald reached the same conclusion as did the CPS in 1993, albeit with a more conventional ending. The details of that work are covered in Inspector Smith's notes (**Exh. 1803**) and his detailed evidence. It is submitted that it is to the credit of Inspector Smith that, in spite of much publicity and perhaps subliminal political pressures, he, like Cst. Sebalj, "drilled down" into the case and arrived at a position of "suspicion" that someone, at some time, abused David Silmser, but there was no subjective belief to substantiate any charges. In his written opinion, then-Regional Crown Peter Griffiths confirmed not only no subjective belief, but also no objective basis to justify charges **(Exh. 1147).**

It is significant to note that one additional major step was taken by the OPP—they interviewed Father MacDonald **(Exh. 2251)**. While perhaps not a model interview, because of Malcolm MacDonald's interventions, it did produce significant leads as to the real relationship between Father MacDonald and David Silmser, including the "Dear Chuck" letter in 1975 **(Tim Smith, Vol. 312, pp. 239-248) (Exh. 309).** It also provided

some insight into Mr. Silmser's character and financial motivations. Certainly this new information was considered important enough that the OPP felt that CAS should know of it and that Mr. Silmser should be re-interviewed, indeed confronted. David Silmser and his lawyer both knew of the OPP's new heightened concerns; however, the re-interview never happened (**Tim Smith**, **Vol. 312, pp. 211-213**).

The negative assessment of David Silmser did not only come from Father MacDonald. During the parallel extortion investigation, led by Inspector Hamelink in 1994, one of Mr. Silmser's former probation officers, Stuart Rousseau, provided similar, damning assessments (**Exh. 2551)**.

FATHER CHARLES MACDONALD - OPP RESPONSE (1996) – "SLIMMEST REASONABLE PROSPECT"

Given the accumulation of events, from 1994 to early 1996, perhaps it is not particularly surprising that charges are eventually laid against Father Charles MacDonald, in March, 1996. It would appear that the availability of three complainants, particularly the coming forward of C3, after three years, tipped the "R.P.G. scale", albeit just enough (**Exh. C-394**). It should be noted that the decision now to proceed did not include all allegations of either Mr. Silmser or C3. The concern about a consent issue with C3, noted as far back as 1993 by both Cst. Sebalj and S/Sgt. Derochie (**Exh. 1293**), persisted, and was shared by both Mr. Griffiths and Mr. Pelletier (**Tim Smith**, **Vol. 312, p. 273 and Exh. 228**).

In his evidence here, Inspector Smith confirmed that the essence of the decision reached, in charging Father MacDonald, was based on "the slimmest possible reasonable prospect of conviction", with the approach being to see how the complainants did as witnesses and then to re-assess matters (**Vol. 312, pp. 263-66 and Exhs. 228 & 3299**). In addition, Inspector Smith confirmed that when he submitted the brief for Crown review (**Exh. 2672**), he believed that C3's motive finally to come forward was to "corroborate" David Silmser and John MacDonald. During his cross-examination, he saw, for the first time, the personal notes of John MacDonald (**Exh. 204**), indicating that C3 actually came forward in anticipation of securing a financial settlement. It is submitted that Inspector Smith was surprised at this news; he never knew this fact until that day, November 26th, 2008 **(Vol. 312, pp. 260-263**). One is left to wonder what the OPP, or Crown, response would have been if possessed of that knowledge at the pre-charge stage.

Interestingly, having eventually received a settlement, C3 sought more money from the Criminal Injuries Compensation Board ("CICB") much later. His claim was rejected, as "double-dipping" **(Exh. 3499)**. The second complainant, John MacDonald also had his claim dismissed, in 2003, because he was not believed, even on a balance of probabilities, by the CICB **(Exh. 229)**. In dismissing his claim, the Board particularly relied on highly inconsistent statements by Mr. MacDonald's friends (**Exh**. **246)** and his own mother (**Exh. 253**), statements that came from the same Crown brief, Exh. 2672, on which the "slimmest possible reasonable prospect of conviction" was based.

OPP RESPONSE – PROJECT TRUTH – THE MORE THE BETTER?

On January 26, 1998, under the umbrella of Project Truth, Father MacDonald was charged with allegations by five "new" complainants. Two of these, C8 and Robert Renshaw, were not actually "new"; they were direct "recruits" by Perry Dunlop back in early 1997, each in somewhat unusual circumstances.

What became the police statement of C8, Exh. C-607, was typed for C8 by Perry Dunlop. It was a complete fabrication, but one with a unique detail, the candles in the rectum, that only Mr. Dunlop, Mr. Bourgeois and Mr. Leroux would know. Leroux and C8 were seriously at odds by then; in fact, C8 thought he was complaining about Mr. Leroux to Mr. Dunlop as early as June, 1996. When Ron Leroux made his various statements to Mr. Dunlop and Charles Bourgeois in the Fall of 1996, C8 was not present and there is no evidence that C8 ever saw the various Leroux versions. Therefore, the question arises—given that the entire funeral event never happened, how do "the candles" get into the statement? The Crown, Mr. McConnery, learned how it happened—Perry Dunlop (**Lorne McConnery, Vol. 335, pp. 175-185 & Exh. 3068**).

In the case of Robert Renshaw, what he thought was a complaint to a police officer, Mr. Dunlop, was actually an affidavit, one bearing the style of cause of Mr. Dunlop's lawsuit **(Robert Renshaw, Vol. 97, p. 49)**. This document, like many other Dunlop documents, was given to Mr. Nadeau, without permission, and publicly disseminated on the Nadeau website. Inspector Hall confirmed that the source was Mr. Dunlop and, indeed, the Dunlop documents and the Nadeau versions were identical. Mr.

Dunlop denied that he supplied Mr. Nadeau – on oath (**Pat Hall, Vol. 323, pp. 95-99 & Exh. 2787**).

It should be remembered that Robert Renshaw swore to the story against Father MacDonald without ever reading it (**Robert Renshaw**, **Vol. 97, pp. 110-112**). Similarly, Mr. Renshaw swore an affidavit for this Inquiry that the alleged abuse by Father MacDonald caused him to lose his Catholic faith, when he was never a Catholic at all (**Exh.352)**. The complainant known as C10 also swore an affidavit with an allegation against Father MacDonald that never happened.

During his evidence at the Inquiry, Inspector Hall was cross-examined about the story told by C8. It was pointed out that there were many "red flags" in the statement, indicating the falsity of the story, well before the Preliminary Inquiry, in 1999, let alone C8's confession to Mr. McConnery, in 2002. He acknowledged that someone "missed it" and somehow formed "R.P.G." (**Pat Hall**, **Vol. 223, pp. 182-84**). It is not entirely clear whether the forming of "R.P.G." for these five complainants came before or after the opinion by Robert Pelletier that further charges were warranted (**Vol. 223, pp. 103-104**). Although it would appear that "R.P.G." was formed on an individual basis, it is respectfully submitted that in relation to some of these complainants, as with the later story by C2, in 2000, there was something less than the careful "drilling down" seen in 1993 (CPS) and 1994 (OPP).

In his evidence in chief and in cross-examination, Inspector Hall stated the position that the greater the number of complainants, the more likely a conviction; and that he felt that Crowns agreed with this viewpoint (**Pat Hall, Vol. 223, p. 100**). It is submitted that hopefully what Inspector Hall likely meant is that there would be more complainants used if their evidence met the test of "R.P.G." and was legally admissible, as similar act, for example. This is not entirely clear, however, and does not really explain how complainants like C8, Robert Renshaw, Kevin Upper and C2 passed the "tests" of both "RPG" and "RPC". One consequence, as acknowledged by Shelley Hallett, is that trials with multiple complaints may well take longer to be reached, thereby adding to delay, which benefits neither society nor the alleged offender (**Vol. 340, pp. 22-24**). There are potentially more serious consequences.

MAG RESPONSE – MULTIPLE COMPLAINANTS – BENEFITS & RISKS

Although the initial approach of the Crown to the case of Father MacDonald, when there were three complainants, was to proceed, but to re-assess the prosecution after the first Preliminary Inquiry (**Exh. 228**), it is submitted that such an approach was, in all likelihood, essentially overtaken by the events of Project Truth, leading to charges for five new complainants. That is not to say, however, that critical re-assessment was not warranted. That is one useful function of a Preliminary Inquiry.

Although perhaps naïve and unrealistic on the part of the Defence, it is submitted that a careful re-assessment of each complainant was still necessarily called for, based on the Crown briefs and on the evidence heard at both Preliminary Inquiries. If one looks at

the notes of the meeting between Ms. Hallett and Mr. Pelletier, the strengths and weaknesses of each one is mentioned (**Exh. 3212**). When one looks at the notes of the first pre-trial, much to the displeasure of Ms. Hallett apparently, a detailed critique of each complainant is provided, by the Defence (**Exh. 3214**) (**Shelley Hallett, Vol. 339, pp. 272-73; pp. 289-292**). What is particularly interesting is when one looks at the subsequent Crown summaries of the two Preliminaries and the Discoveries (**Exhs. 502 & 3245**). These summaries, by the Crown, are based on actual testimony, not merely a reading of statements. Those summaries identify problems with C8, C3 (a "joke" and money), C4 (inconsistent photos), Robert Renshaw and Kevin Upper, in addition to David Silmser and John MacDonald. Surprisingly, it is submitted, Ms. Hallett seemed to believe that there was actually evidence available that Father MacDonald could have said Mass by 1968, before he was ordained and was, in fact, still in St. Paul Seminary in Ottawa (**Shelley Hallett, Vol. 339, pp. 286-7 and Vol. 340, pp. 4-12) (Vol. 271- Bishop Larocque**)

In cross-examination, Ms. Hallett was referred to a Defence letter (**Exh. 3246**), which raised, yet again, the earlier concerns about many of the complainants. She was also referred to her response (**Exh. 3216**), which essentially ignored those concerns and dealt mainly with yet another new complainant, C2. It was Ms. Hallett that recommended the C2 charges, charges that Mr. McConnery had serious concerns about before he even met with C2, because of what he had read of his evidence; when C2 added yet more startling information, the charges were withdrawn **(Lorne McConnery, Vol. 335, pp. 190-91**). When Ms. Hallett was referred to Inspector Hall's view, the more

complainants the better, she disagreed; she further disagreed with the suggestion that that was why all the complainants were kept, in spite of the Defence submissions and the Crown's own summaries (**Shelley Hallett, Vol. 340, pp. 30-31**). When referred to the fact that C8 had admitted to fabrication, her response was that it was "unfortunate it happened so late" (**Vol. 339, p. 284).** When Mr. McConnery read the evidence and Defence-generated documents related to C8, he already had concerns about C8 and told him that his funeral story was not true; that is when C8 confessed his perjury (**Lorne McConnery, Vol. 335, pp. 183-83**).

It is respectfully submitted that without the careful analysis of each complainant, the kind of "drilling down" that Mr. McConnery demonstrated, there is a grave risk, especially in multiple-complainant cases, of wrongful convictions, of serious miscarriages of justice. Such miscarriages can occur because one or more complainants, such as C8, are somehow believed individually; that is precisely what happened at the trial of Marcel Lalonde, where C8 was otherwise believed, in spite of admitting to having fabricated part of his allegations (**Exh. 3488, pp. 16-17**). It can also occur because the evidence of one complainant is used to "bootstrap" the evidence of another complainant, by way of inferences from "similar act."

It is submitted that in 1994, on December 23rd, 1994, the correct response was made (**Exhs. 1147 & 1000**). It should be observed, however, that such is not always the case. In many criminal investigations and prosecutions, in spite of the constitutionally-protected presumption of innocence, particularly with very personalized allegations such

as sexual assault, there is always "the elephant in the corner"—"why is this person accusing you?" The Ontario Court of Appeal has clearly prohibited the Crown from cross-examining an alleged offender at trial with such questions as "why is this complainant lying about you?"—R. v. R. (A.J.) (1994), 168 C.C.C. (3d) 168 (O.C.A.) However, that is not to say that such thinking does not inform the pre-trial investigation approach of the police, or the analysis of the Crown. Indeed, when one looks at the statement of Father MacDonald (**Exh. 2251, p. 7**), taken by Det. Fagan on June 7th, 1994, almost that exact question is posed. In spite of the care with which he approached the 1994 re-investigation, and the conclusion he reached, even the experienced Inspector Smith stated the following in his notes (**Exh. 1803, bp. 1054222**): "Ask Charlie if there is any evidence he has to corroborate he didn't commit offence"

Historical sexual offences present a unique challenge, but not only to police and/or prosecutors; more often than not, they present enormous, almost-insurmountable ones for the alleged offender—accounting for one's life going back years, even decades. Rarely does an alleged offender have the kind of documentary evidence that was available to Father MacDonald to refute the perjured fabrications of C8! And that was only because C8 made "the mistake" of selecting a specific, verifiable event, his father's funeral.

More typical, unfortunately, it is submitted, is an allegation like that of Robert Renshaw. This complainant, the Dunlop "recruit", first alleged an offence in 1981, purportedly shortly after the death of his father. To the knowledge of the police and

Crown, this was 6 years after Father MacDonald had left St. Columban's Parish. Subsequently, the year of the alleged offence became 1983, apparently because Mr. Renshaw remembered that it happened shortly before a suicide attempt, in 1983. This was now 8 years after Father MacDonald had left St. Columban's. The lead investigator for this matter, Det. Dupuis, could not recall any follow-up investigation that was done to determine how Father MacDonald could be in the rectory at St. Columban's some eight years after he had left that parish (**Joe Dupuis, Vol. 309, pp. 187-190**). In spite of these and other significant inconsistencies, as noted by the Crown in its own summaries (Exh. 502) and in spite of the Defence letter of concern about Mr. Renshaw, and others (Exh. 3246), the Crown apparently saw no reviewable issues, thereby putting the onus of proof, effectively, on Father MacDonald—to produce "any evidence he has to corroborate he didn't commit offence".

CONCLUSION – POSTCRIPT FROM A FORMER FRIEND

For more than twelve years, from 1996 to now, the City of Cornwall has struggled under a cloud created, without legitimate foundation, by one of its own. Perry Dunlop could have been a responsible police officer, a responsible citizen, even a hero to some degree. It is respectfully submitted that he is none of those things; and there can be no more accurate and brutally-honest postscript to what Perry Dunlop unfairly did to so many, including his fellow citizens of Cornwall, than the words of his former friend, Richard Abell, in **Exh. 2470**:

> March 21, 2001
>
> Danielle G. Dougall
> Assistant Director

Decorations and Medals
Rideau Hall
1 Susses Drive
Ottawa, ON
K1A 0A1

Dear Ms. Dougall:

Re: Helen and Perry Dunlop

Thank you for your letter of March 12th. I was directly involved in the "…unveiling of a sexual abuse scandal…" by Perry Dunlop in 1993. I was at that time, and remain, the Executive Director of the Children's Aid Society of the United Counties of Stormont, Dundas, and Glengarry. The city of Cornwall lies within our jurisdiction.

In September of that year Perry came to me with a police statement, written by an individual who was claiming to have been sexually molested by a Roman Catholic priest while serving as an alter boy in a Cornwall church a number of years previously. Perry had obtained the statement from another police officer—this was not a case he was assigned to. Perry was outraged that his department was not pursuing criminal charges, for the reason that subsequent to making his statement the individual had accepted a financial settlement from the local Catholic diocese, in exchange for agreeing to drop the matter. The Police Department had taken the position that with no complainant, there was no basis for charges.

The priest involved with the Dunlop's own priest. This man had married Helen and Perry, and baptized their children.

Prior to approaching me with the statement, Perry had taken the matter up with a superior officer in the Department. He had been told to return the statement, and to end his involvement in the affair.

When Perry came to me with the statement (we were personal friends at the time), he indicated that he was well aware that he would face disciplinary sanctions for doing so, in that his conduct was directly contrary to the order he had been given by his superior officer. He stated, and I believed, that he had acted out of a genuine commitment to the safety of children in our community, a powerful sense of the injustice inherent in the pay-off of the alleged victim, and concern that there were likely other abusers and victims in the community whose history would never see the light of day.

For releasing the statement, Perry was charged under the Police Act, and found guilty. He was ultimately given a strong exoneration by an appeal court that found he had acted correctly in making the situation known to the child welfare authorities. The entire affair has grown considerably over the years, receiving national and international media attention, to the point that the city is now linked in the minds of many with this case.

I regret to say that the conduct of Helen and Perry over the intervening years has I n my view badly tarnished the merit they deserve for first bringing the police statement to the Children's Aid Society. They have taken it on themselves to publicly condemn and accuse many individuals in this community of sex crimes, and indeed they have been active in the characterization the entire city as a 'haven for pedophiles'. This has been done on the basis of a lengthy and extensive private investigation carried out by the Dunlops and a group of supporters. Their conviction as to the existence of a massive cover-up conspiracy by community leaders has taken on paranoid tones of the *X-Files*.

It is their work in contacting alleged sexual abuse victims which is now emerging in the criminal proceedings as profoundly damaging to the very cause the Dunlops have so strongly espoused. One of these individuals has given sworn testimony that he was coached by Perry to falsify a portion of his statement in order to improve his opportunity of gaining a larger financial award in a civil action against a local school board. Police investigators have given evidence regarding the difficulty they had with Perry's involvement with alleged victims and potential witnesses during the course of their extensive criminal inquiry into the allegations made by Perry. It is becoming apparent that some key evidence which will be used by the prosecution has been badly tainted by the actions of the Dunlops and their followers, to the point that genuine victims may well never see justice done in their cases. Worse, the integrity and veracity of some, and possibly all, alleged victims is now in question.

It is unlikely that this community will ever see the 'clearing of the air' that so many have asked for after. Some innocent people will have to endure a life-long cloud of suspicion over them because of the public accusations directed against them. Some guilty parties will escape being held to account for their crimes. Lastly, the respect and appreciate the Dunlops actually did earn has been stained by their single-minded and self-promoting crusade.

Given the above, I cannot say that Perry's action in bringing this matter to light has brought 'honour to Canada'. It is impossible for me to separate the initial action taken by Perry from all that has followed, as indicated in your criteria for the granting of the Meritorious Service Decoration.

In summary, I do not believe the Dunlops deserve this recognition.

Yours truly,

Richard Abell

It is respectfully submitted that it is imperative for the Final Report of this Commission to dispel, once and for all, the myths of “the clan” and the “cover-up”. Cornwall deserves no less for the time and resources invested over the last three years.

The sexual abuse of children and young persons is a tragic, but inevitable part of the life of any community. Indeed, more frequently it is perpetrated within a family setting, not by a stranger.

It is the role of the police to investigate alleged crimes, including child sexual abuse. Such investigations must be thorough, and appropriately sensitive to the needs of apparent victims; however, they must also be balanced, objective and appropriately sensitive to the alleged offender, given the devastating consequences, even where charges do not result.

Fairness and objectivity require that the police and the Crown remain separate entities, each with a well-defined role. Where required, the Crown must act as a “check or balance” for a police investigation. As recommended recently by former Chief Justice Lamer, the Crown must assess, realistically, the police evidence at <u>all</u> stages of the

process, during the pre-trial stage, even the pre-charge stage where given that opportunity, after the Preliminary Inquiry and even during the trial itself.

Careful investigations and prosecutions are not inconsistent with sensitivity to the legitimate concerns and interests of potential victims. Wrongful convictions have only victims—the accused, often the complainant, the justice system and the community.

Michael J. Neville
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