

**THE CORNWALL
PUBLIC INQUIRY**



**L'ENQUÊTE PUBLIQUE
SUR CORNWALL**

Public Hearing

Audience publique

Commissioner

**The Honourable Justice /
L'honorable juge
G. Normand Glaude**

Commissaire

VOLUME 46

Held at :

Hearings Room
709 Cotton Mill Street
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K6H 7K7

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Tenue à:

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

Mercredi, le 9 août 2006

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Louise Mongeon	Registrar
Me Daniel Boivin	Cornwall Police Service Board
Ms. Suzanne Costom	Ontario Provincial Police
Ms. Diane Lahaie	
Dect.Staff Sgt.Colin Groskopf	
Mr. David Rose	Ontario Ministry of Community
Mr. Mike Lawless	and Correctional Services and
	Adult Community Corrections
Mr. Christopher Thompson	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of
	the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Ms. Lauren Schellenberger	
Mr. William Carroll	Ontario Provincial Police
	Association
Ms. Nadya Tymochenko	Mr. James Dilamarter
Mr. Bob Keel	Upper Canada District School
	Board
Ms. Nadya Tymochenko	Mr. David Thomas
Mr. Bob Keel	Upper Canada District School
	Board
Mr. David Sherriff-Scott	Bishop Paul-André Durocher
M ^e André Ducasse	

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1 --- Upon commencing at 9:33 a.m./

2 L'audience débute à 9h33

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

6 Please be seated. Veuillez vous asseoir.

7 **THE COMMISSIONER:** Thank you. Good morning,
8 all.

9 Mr. Engelmann.

10 **MR. ENGELMANN:** Good morning, Mr.
11 Commissioner.

12 **JAMES DILAMARTER, Resumed:**

13 --- EXAMINATION-IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
14 ENGELMANN (cont'd/suite):

15 **MR. ENGELMANN:** Good morning, Mr.
16 Dilamarter.

17 **MR. DILAMARTER:** Good morning.

18 **MR. ENGELMANN:** Sir, when we left off
19 yesterday we were looking at Exhibit 53 which is the Book
20 of Documents for James Dilamarter, Volume 1, and we were at
21 Tab 1, sir, of the outline on page 3, and we had just gone
22 through in some detail your child abuse protocol from April
23 of '89.

24 I would like to just -- and that's
25 referenced in the second paragraph on that page. I would

1 like to just ask you briefly about another policy and
2 protocol that you had in place, and that would be the
3 sexual harassment policy.

4 Mr. Dilamarter, I understand that that was
5 another policy of the Board's?

6 **MR. DILAMARTER:** This was one that was
7 established prior to '89, like many of the others, and it
8 dealt with sexual harassment and was specifically aimed at
9 staff and it grew out of the Affirmative Action Committee
10 that the Board had.

11 **MR. ENGELMANN:** All right.

12 And that's what we see at Tab 11; is that
13 correct?

14 **MR. DILAMARTER:** Yes, it is.

15 **MR. ENGELMANN:** And we have a policy a bit
16 longer than the previous policy.

17 **(SHORT PAUSE/COURTE PAUSE)**

18 **MR. ENGELMANN:** Try 12. My numbers are a
19 bit off. I apologize.

20 All right. So this was a policy that was
21 developed a little earlier by the Board prior to your
22 tenure?

23 **MR. DILAMARTER:** It was developed a little
24 earlier. It was one that I clearly remember, as
25 superintendent, coming out of the Affirmative Action

1 Committee to the Board through the Director of Education
2 and it really did deal with staff dealing with staff and so
3 forth.

4 **MR. ENGELMANN:** All right.

5 And so, for example, if we turn over the
6 page, when we get into the guidelines or the protocol
7 itself, it has a procedure set out for staff members who
8 are concerned about sexual harassment?

9 **MR. DILAMARTER:** That's right.

10 They had a mechanism that they knew what
11 they should do and could do.

12 **MR. ENGELMANN:** All right.

13 So this isn't really something that pertains
14 to issues involving abusive students and child ---

15 **MR. DILAMARTER:** No, it wasn't designed with
16 that purpose in mind.

17 **MR. ENGELMANN:** All right.

18 So again, going back to Tab 1, page 3, you
19 have a reference to the Child Sexual Abuse Protocol for the
20 United Counties of Stormont, Dundas and Glengarry. The
21 document is just coming up on the screen and it's either
22 Tab 12 or 13. But you have a copy of this, sir, in front
23 of you?

24 **MR. DILAMARTER:** Yes, I do.

25 **MR. ENGELMANN:** Now, I'm just wondering;

1 we've looked at a child abuse protocol of the Board's from
2 1989. This is a coordinated or multi-party protocol; is it
3 not?

4 **MR. DILAMARTER:** That's correct. The first
5 one dealt specifically with the Board of Education, and I
6 believe the Roman Catholic Separate School Board had done a
7 similar policy.

8 This one was created by a group of people
9 from the community with representation from both Boards,
10 from the police, from CAS under the capable leadership of
11 Bill Carriere. It really was a mechanism -- through the
12 course of the months subsequent to the in-service we did in
13 connection with our own abuse protocol, a lot of questions
14 arose, "Well, what happens when?" And this answered some
15 of the questions that we were hearing from principals and
16 teachers and clarified everyone's role and it really, I
17 think, enhanced the partnership that was existing in the
18 community at that particular time to deal with the issue.
19 So you'll see a reference in it to the School Board's
20 policy, but most of it deals with how CAS and how the
21 police would handle circumstances.

22 **MR. ENGELMANN:** I note in your outline you
23 refer to the significance, complexity and benefit of a
24 coordinated effort with respect to preventing reporting and
25 investigating incidents of child sexual abuse.

1 **MR. DILAMARTER:** I found it absolutely
2 excellent. It was something that everyone knew what
3 everyone else was required to do and would be doing.

4 **MR. ENGELMANN:** All right.

5 And if we turn to the second page of the
6 protocol, we have the various representatives of the
7 parties who signed off on the protocol?

8 **MR. DILAMARTER:** Yes. Each of us signed off
9 that we were satisfied with it, we're proud of it and we're
10 anxious to see it implemented.

11 **MR. ENGELMANN:** All right.

12 And you are committing your institutions to
13 the declaration of commitment on that page?

14 **MR. DILAMARTER:** Yes.

15 **MR. ENGELMANN:** All right.

16 And, sir, if we turn a couple more pages and
17 look at the acknowledgements, can you tell us who it is
18 that was working on this committee from the School Board?

19 **MR. DILAMARTER:** From our school board we
20 had David Hill and David Hill's name has come up before in
21 the last day or so, and David was our Coordinator of
22 Special Education throughout both my tenure and the tenure
23 of Rosaire Léger. He was the chief person on that
24 particular committee and, of course, we also -- he reported
25 to the superintendent, Mr. Bill Roddy at the time. David

1 did the legwork on the committee that was led by Bill
2 Carriere from CAS.

3 **MR. ENGELMANN:** And do you have some sense
4 as to how long that legwork was under way? I note the
5 protocol appears to have been signed off in '92.

6 **MR. DILAMARTER:** I don't know. I couldn't
7 say specifically how long it did take. I know it took a
8 lot of work on a lot of people's parts, but to tell you how
9 long it took, I couldn't tell you.

10 **MR. ENGELMANN:** All right.

11 I'm looking at the forward then a couple
12 more pages in and, in particular, at the last two
13 paragraphs in that page. I would just ask you to comment
14 on that if you could?

15 **MR. DILAMARTER:** I think both of those
16 paragraphs really reflect, I think, what all of the
17 agencies who were part and parcel of this protocol felt,
18 that it was a shared belief and the way things would be
19 handled, it was a standards of practice that were going to
20 be in place and would be recognized among agencies and
21 among the staff that worked in the agencies. It was very
22 comprehensive and I think it reflected what was happening.
23 We just didn't have it in writing before, and so now,
24 whether you were in Dundas County or in Peel; you knew
25 exactly what each of these agencies would be doing.

1 **MR. ENGELMANN:** All right.

2 And the reference to agencies having their
3 own more comprehensive protocols and that they should be
4 consistent, the reference to your own institution would be
5 the policy that we looked at yesterday?

6 **MR. DILAMARTER:** Exactly. And if you see
7 what's in here, you'll see it references our document, and
8 what it says is pretty much what is said exactly in our
9 document originally from '89.

10 **MR. ENGELMANN:** Okay. And the actual
11 references to the school board and procedures in schools,
12 if you want to turn to page 11, sir, the last paragraph
13 appears to be a procedure for investigating when the child
14 is at school?

15 **MR. DILAMARTER:** Yes, and it reflects that
16 both -- indicates that both school boards had a similar
17 policy.

18 **MR. ENGELMANN:** And likewise, there appears
19 to be a procedure on the next two pages dealing with both
20 the intra and extra-familial child abuse at school?

21 **MR. DILAMARTER:** And you'll remember those
22 words came directly from our policy documented from the
23 Separate School Board's policy document. So what's
24 described there is reflective of what we had in our
25 protocol.

1 **MR. ENGELMANN:** Okay. So this protocol and
2 your 1989 protocol continued to exist together?

3 **MR. DILAMARTER:** Absolutely. There was no
4 conflict between the two of them and, in fact, this was
5 more or less a clarification of what the other members of
6 the community's role would be. It was clear to our school
7 system what our responsibilities were, but this makes it
8 clear what other people's responsibilities were as well and
9 where we fit into that.

10 **MR. ENGELMANN:** Was there some training, in-
11 service or otherwise, of school board officials or
12 employees with this protocol?

13 **MR. DILAMARTER:** Similarly to what was
14 happening before, and this was an issue that obviously had
15 been at the forefront since '89 and we did the same process
16 with this as we had done before with the principals'
17 meetings, with area principals' meetings, with professional
18 counsel which were representatives from the various
19 federation groups and teacher groups and members of
20 custodians and secretaries and so forth. So it would have
21 followed a similar practice and also we would have involved
22 the people who were part of that team, the David Hills, the
23 Bill Carrieres and so forth in presenting this to the
24 staff.

25 **MR. ENGELMANN:** All right.

1 And when you say present to staff,
2 presumably to your principals?

3 **MR. DILAMARTER:** Mostly to the principals.
4 And I can't recall directly, but we also had in those days
5 professional activity days, and I suspect that this is --
6 if my memory is correct, this is one of the issues that was
7 an issue on a professional development day with staff as
8 well.

9 **MR. ENGELMANN:** We've heard from -- one of
10 our context experts was an executive director of a
11 Children's Aid Society for some 20 years in London, John
12 Listen, and he talked about the importance not just of the
13 protocol itself but of continuing those relationships
14 between the partners.

15 Can you give us a sense between '92 when
16 this comes out and '98 when you retire, was there some
17 effort on the part of the Board to maintain those
18 relationships with the other community partners?

19 **MR. DILAMARTER:** I felt extremely positive
20 throughout my tenure as director about the relationships
21 that had developed over the years and continue to develop
22 amongst ourselves as a school board and amongst the police
23 department and the work that they helped us do in the
24 schools with things like VIP, which obviously had some
25 impact, with constables that were assigned to schools.

1 With the CAS organization, I could not speak in anything
2 but glowing terms with the relationship that existed
3 amongst those agencies.

4 And also, in spite of the fact that you
5 heard yesterday about the difficulties we had over property
6 issues with the Separate School Board, there was a good
7 relationship of staff between the Public and the Separate
8 School Board, whether it be special education staff or
9 consultative staff.

10 So all the agencies had a good "pick up the
11 phone and call and ask questions" and they were very
12 comfortable with each other, and that was true right
13 through to the end and remained true after I left that role
14 as director. I still have contacts with people from CAS
15 and am very pleased with what's happening and what had
16 happened.

17 **MR. ENGELMANN:** All right.

18 Now, I understand this protocol continued to
19 be in place throughout your tenure?

20 **MR. DILAMARTER:** Yes, it did.

21 **MR. ENGELMANN:** So if we could then turn to
22 page 4 of your outline, Tab 1, this is about student
23 discipline and police involvement. You reference another
24 Board policy, and this is the policy on the interrogation
25 of pupils by police in public and secondary schools.

1 Can you just -- I note that this policy is
2 dated April '89. Can you give us a sense as to what this
3 policy is about and why the Board thought there was a need
4 to have a policy and protocol on this issue?

5 **MR. DILAMARTER:** This was an attempt to make
6 sure our staff, our principals and our teachers and people
7 from our community, understood that we had a responsibility
8 to protect the children in the system, and although you
9 have all of your children gathered in one place, it seems,
10 and it's kind of an easy target to go to to solve and to
11 deal with issues, if you're going to be involving the
12 police or -- well, particularly in this case, the
13 interrogation by police in public and secondary schools, it
14 had to necessitate the recognition that many of those
15 people that they're interrogating or want to interrogate
16 are children and we have a responsibility to those people,
17 to those children and to those parents. We are the pseudo
18 parents.

19 So what that outlines is the fact that we
20 can -- because people are certainly free to come in, but we
21 may be involved or the parent may be involved prior to any
22 interrogation.

23 We also told our principals, of course, if
24 police are coming in the school to make an arrest, that's a
25 different story. They have a warrant and they can arrest.

1 We also wanted to make sure that people understood that you
2 couldn't just go into the school and demand a copy of the
3 OSR card, the Ontario School Record card, that this was a
4 document that was -- it belonged to the School Board, but
5 in essence it was only released on approval of the parent
6 and written approval of the parent. We were running into
7 some problems, just to give you an example, with divorce
8 situations where one parent or the other would come in and
9 say, "I want the OSR card" or "I want to see the report
10 card", and it was a non-custodial parent. We had to
11 insist, "No, we will not release that information to you.
12 You need to have proof that you are actually the custodial
13 parent".

14 So it solved a lot of problems. It
15 protected the principals because they could go back and
16 say, "I can't do that because this is what the Board policy
17 says".

18 **MR. ENGELMANN:** This policy and the
19 procedure that is to be followed really deals more with
20 children who are alleged perpetrators of crimes, and you're
21 dealing with ---

22 **MR. DILAMARTER:** Yes, this is someone who
23 has done some graffiti downtown and certainly you want to
24 be as supportive as you can to the police, and they
25 understood that entirely, but at the same time you have to

1 protect the children and the children's rights, plus the
2 parents' rights as well.

3 **MR. ENGELMANN:** All right.

4 Now, you referenced and we've seen this
5 earlier from a previous witness, the issue of suspensions
6 and expulsions. The situation with respect to those
7 remains the same, does it not? Suspensions were the
8 responsibilities of the principals? Expulsions ---

9 **MR. DILAMARTER:** That didn't change. That's
10 right.

11 **MR. ENGELMANN:** And expulsions at your
12 level?

13 **MR. DILAMARTER:** The suspension was the
14 responsibility of the principal. The only thing -- we did
15 have a policy and that policy prescribed the length of the
16 suspension. The *Education Act* says for a time determined
17 by the Board.

18 **MR. ENGELMANN:** That's what we're looking at
19 now on the screen?

20 **MR. DILAMARTER:** That's true.

21 **MR. ENGELMANN:** Where you set a maximum of
22 five days.

23 **MR. DILAMARTER:** Yes and this changed when
24 the school's policies came out and dealt with serious
25 situations in the school where we could extend that with

1 the permission of the Board to 20 days.

2 **MR. ENGELMANN:** Likewise, you had a policy
3 and also procedure for the expulsion of pupils.

4 **MR. DILAMARTER:** And it was exactly as Mr.
5 Leger described yesterday. This was a requirement of the
6 Board. The Board could expel; not the principal.

7 **MR. ENGELMANN:** I note in your outline the
8 same reference as in his that sexual assault and sexual
9 molestation between students would have been considered
10 disciplinary infractions and therefore could lead to either
11 suspension or expulsion.

12 **MR. DILAMARTER:** Absolutely, yes.

13 **MR. ENGELMANN:** Sir, if we could then go on
14 to the next section of your outline "Employee Hiring and
15 Terminations". Again, as I understand it, the board
16 implemented a policy and this would be again shortly after
17 your tenure as director on selection procedures.

18 **MR. DILAMARTER:** We did and it very much
19 reflected what Mr. Leger told you yesterday. This also
20 developed out of our professional council, which was a
21 group of teachers who met with teachers and members of
22 staff that were representative really of union groups that
23 met with the director making suggestions to the fairness
24 practices within the system and this was an attempt to be
25 sure that we were fair -- not only fair but perceived to be

1 fair.

2 MR. ENGELMANN: All right.

3 Perhaps we could just bring it up on the
4 screen briefly, and this is -- I thought it was Tab -- yes,
5 18.

6 And these are guidelines for positions of
7 added responsibility and we've heard about those yesterday.

8 MR. DILAMARTER: Yes and ---

9 MR. ENGELMANN: And also the teacher
10 positions.

11 MR. DILAMARTER: Yes, there's two sections
12 to it. One is positions of added responsibility, which
13 could be superintendent; could be consultant; could be
14 department head; principal; vice-principal, and the other
15 one deals with the hiring of teachers.

16 MR. ENGELMANN: All right.

17 And the process is set out in the pages that
18 follow with respect to how to ensure this process is
19 transparent and objective.

20 MR. DILAMARTER: That's exactly what we
21 wanted to do.

22 MR. ENGELMANN: All right.

23 MR. DILAMARTER: There's even reference in
24 there to the candidate being able to use the Affirmative
25 Action Consultant if he or she wishes.

1 **MR. ENGELMANN:** Now, what about references?
2 I note at "D" there's a reference to them. And it says
3 that there's to be:

4 "At least two references, if possible,
5 determined by the Selection Committee,
6 are to be used for each candidate".

7 Do you know if references were actually
8 spoken with?

9 **MR. DILAMARTER:** Oh absolutely, absolutely.

10 This was to me probably the most important
11 part and you had to make sure you'd gone to someone who
12 knew the individual and had worked with the individual as
13 much as possible and that was a very, very important part
14 of the whole process.

15 **MR. ENGELMANN:** Now, there's no indication
16 at least in this procedure or protocol that there's any
17 form of criminal background check being done on hiring. Is
18 that something that comes in later, to your knowledge?

19 **MR. DILAMARTER:** I recall that towards the
20 end of my tenure as director the issue of police checks was
21 something that we were addressing. I don't recall the
22 extent to which we implemented it. I know we discussed it
23 at Professional Council and we discussed it at Admin
24 Council and I know that we did some police checking and I
25 remember discussing this provincially at the OPS, Ontario

1 Public School Supervisory Officers Group, which I sat on
2 the board; because we're talking about the cost of these
3 and who would pay for them and so forth. So we were at the
4 early stages of doing that. We even, I recall, discussed
5 with principals the possibility of police checks for
6 volunteers within the schools. And this was generally,
7 from what I could gather from my friends across the
8 province, about the time when this concept was beginning to
9 be thought about, and perhaps should have been thought
10 about earlier, but it was being thought about. We did
11 discuss it. I can't recall the extent to which we
12 implemented it.

13 **MR. ENGELMANN:** All right.

14 So you're not sure about background checks
15 on school volunteers?

16 **MR. DILAMARTER:** No. I'm not sure.

17 **MR. ENGELMANN:** Presumably, there would be a
18 number of parents and/or other volunteers in the school
19 system.

20 **MR. DILAMARTER:** Yes, and of course in those
21 days it was an issue in some communities because you had a
22 community that had volunteers within the school for a
23 number of years and these were people that the community
24 knew and there was some opposition, I recall, from school
25 councils to the kinds of police checks. So it was in the

1 discussion stages.

2 **MR. ENGELMANN:** You reference in your
3 outline amendments to the *Education Act* in 1993, and I am
4 looking at the fifth paragraph. It appears to deal with
5 situations where a teacher has been convicted of an offence
6 under the Criminal Code involving sexual conduct in minors.
7 Do you see that reference?

8 **MR. DILAMARTER:** Yes, I do.

9 **MR. ENGELMANN:** Okay. So that was a new
10 requirement?

11 **MR. DILAMARTER:** It was a new requirement.
12 It was something that we never had to do because we never
13 had that occur within our system, but you would be
14 responsible for reporting to the Minister when a conviction
15 occurred.

16 **MR. ENGELMANN:** All right.

17 And I note that the reference in the next
18 paragraph is interpreted as requiring the Board to report
19 to the Minister those individuals who are convicted and not
20 merely charged?

21 **MR. DILAMARTER:** That's true, yes.

22 **MR. ENGELMANN:** So during your tenure, you
23 didn't have that experience is what you're saying?

24 **MR. DILAMARTER:** We never had anyone who was
25 convicted, no.

1 **MR. ENGELMANN:** Now you reference -- I don't
2 know if you -- do you know what the impetus was for that at
3 the time?

4 **MR. DILAMARTER:** I honestly don't.

5 **MR. ENGELMANN:** This, of course, is the
6 *Education Act*.

7 **MR. DILAMARTER:** It was just a change in the
8 *Education Act*.

9 **MR. ENGELMANN:** All right.

10 And you reference, sir, the formation of the
11 Ontario College of Teachers. How was this significant, if
12 at all, to responsibilities for professionals working in
13 school boards?

14 **MR. DILAMARTER:** If you recall, previously
15 the Minister was responsible for the removal of the
16 qualifications of a teacher ---

17 **MR. ENGELMANN:** Yes.

18 **MR. DILAMARTER:** --- to teach in an
19 elementary or secondary school in the Province of Ontario.
20 With the development of the Ontario College of Teachers,
21 the disciplinary functions and the registration functions
22 and, in reality, the monitoring functions were turned over
23 to a new group called the Ontario College of Teachers,
24 which operated -- started operation then and operates to
25 this day.

1 **MR. ENGELMANN:** All right.

2 So who was doing that before 1996?

3 **MR. DILAMARTER:** The Minister of Education.

4 **MR. ENGELMANN:** Was there some involvement
5 with teachers' federations as well?

6 **MR. DILAMARTER:** Oh, always. There would
7 always be some involvement with the Teachers Federations in
8 such circumstances. The Teachers Federation would appoint
9 legal counsel to represent the teachers in such hearings.

10 **MR. ENGELMANN:** You've also referenced, at I
11 believe it's Tab 23, some of the professional misconducts
12 guidelines that were promulgated, the regulation?

13 **MR. DILAMARTER:** Yes.

14 **MR. ENGELMANN:** You make specific reference
15 in your outline I note at the bottom paragraph to various
16 types of behaviour that are defined as professional
17 misconduct.

18 **MR. DILAMARTER:** Yes.

19 **MR. ENGELMANN:** And that would include forms
20 of sexual or physical abuse of young persons?

21 **MR. DILAMARTER:** Yes, it would.

22 **MR. ENGELMANN:** Now the Board policy or
23 procedure when an employee who had contact with children
24 was charged with a criminal offence, that might indicate
25 that children were at risk, we heard about that from Mr.

1 Leger yesterday, about this policy of suspending with pay
2 until such time as the court system has dealt with the
3 matters. Did that policy or procedure continue during your
4 tenure?

5 **MR. DILAMARTER:** It did.

6 **MR. ENGELMANN:** And is that what we see
7 referenced in the middle paragraph? I am looking at the
8 middle paragraph of page 5.

9 **MR. DILAMARTER:** Yes, it is. Yes.

10 **MR. ENGELMANN:** All right.

11 So it was a suspension with pay?

12 **MR. DILAMARTER:** Yes, if -- and when they
13 did occur, and we did have a few during my tenure where
14 they were charged for offences that were outside the school
15 or happened along while before they were part of our
16 system, immediately I would have -- I did suspend the
17 teacher with pay, and we'd take that teacher and put them
18 in a place where there is no contact with children until
19 such time as the trial reaches a verdict. We also insisted
20 that we would be part of the monitoring process throughout
21 the trial. So my executive assistant or myself and in most
22 cases, it was my executive assistant, would participate as
23 an observer throughout the entire process of the trial, and
24 then when a decision was made and in the cases that we
25 dealt with they were acquitted and we still as a board had

1 to decide whether or not we were going to proceed with
2 anything, and it was based on the recommendations that came
3 from those who observed the case and based on the fact of
4 -- and the verdict itself, and in these particular cases
5 that we had, the individuals were replaced in the school
6 system and continued to work for the school board and were
7 actually received quite positively by their communities.

8 **MR. ENGELMANN:** Those cases were acquittals
9 after full trial?

10 **MR. DILAMARTER:** Full acquittals, yes.

11 **MR. ENGELMANN:** Okay. Sir, on the last page
12 of your outline, you refer to transportation providers.
13 We've heard from Mr. Leger that the vast majority of
14 student transport was by some form of contractor, either
15 private bus lines or City of Cornwall transit. Did that
16 continue during your tenure?

17 **MR. DILAMARTER:** That continued. Yes, it
18 did.

19 **MR. ENGELMANN:** All right.

20 So were there still a small number of buses
21 that the school board was running?

22 **MR. DILAMARTER:** We had I think six
23 operating buses and we had two extras in case one broke
24 down, and we used them for certain routes in the area. We
25 also used Cornwall Transit and we contracted to a variety

1 of service providers across three united counties.

2 MR. ENGELMANN: And I understand that in
3 dealing with transportation providers you developed a
4 couple of policies and protocols?

5 MR. DILAMARTER: Yes.

6 MR. ENGELMANN: Is that what we see at the
7 last two tabs of your Book of Documents, Tabs 24 and 25?

8 MR. DILAMARTER: Yes, they were. Tab 24 is
9 a policy the Board developed, and really you have to recall
10 the timing of this. It obviously dealt with contractors to
11 a certain extent, but it also dealt for the most part with
12 walking distances. We were in an era I didn't realize it
13 was the era when we had lots of money, but we didn't think
14 we had lots of money, and we were having to cut
15 particularly funding from budgets and in some cases, we
16 changed walking distances. So this was a policy that dealt
17 with walking distances; it dealt with inclement weather; it
18 dealt with all sorts of things.

19 MR. ENGELMANN: All right.

20 And lastly, at Tab 25, you have a regulation
21 that's added. Do you recall what that is about sir?

22 MR. DILAMARTER: The *Highway Traffic Act*
23 regulations, yes.

24 MR. ENGELMANN: Okay. I note in your
25 outline there's a reference to the fact that it says:

1 "Pursuant to the *Highway Traffic Act*
2 prohibited granting of licenses to
3 school board bus drivers in
4 circumstances where they have been
5 convicted of specific Criminal Code
6 offences within the last five years,
7 which include sexual offences involving
8 minors or where the candidate for
9 license would not be suitable to
10 transport children".

11 **MR. DILAMARTER:** Yes, it's true.

12 **MR. ENGELMANN:** All right.

13 Sir, you also reference the fact that if you
14 became aware of criminal charges involving the
15 transportation provider's employees, that you would have a
16 similar procedure in place to that for your own staff?

17 **MR. DILAMARTER:** We did the exact same thing
18 we did with our own staff except we would insist that the
19 contract provider remove that individual from the bus and
20 if it dealt, of course, with some sort of sexual abuse or
21 some sort of abuse with -- we would ask them if they had
22 reported to CAS in accordance with the protocol that we
23 had, and if they hadn't we would take on the responsibility
24 to do that.

25 **MR. ENGELMANN:** Okay. And do you know if

1 there was any requirement on the part of the school board,
2 during your tenure, that the transportation providers do
3 criminal background checks or anything like that with
4 respect to their employees?

5 **MR. DILAMARTER:** At that period of time
6 there weren't. There weren't. We had a lot of
7 requirements in connection with safety. We still had our
8 transportation manager. They worked with the providers
9 dealing a great deal with the safety of children on the
10 buses because we were busing 10,000 students a day and it
11 was quite a frightening experience in some of the ice
12 storms that we do get around this area. So we certainly
13 provided a lot of safety training, but as to a requirement
14 for a criminal check, no, we didn't do that unfortunately.

15 **MR. ENGELMANN:** And you did have a
16 transportation officer or manager that was responsible for
17 dealing with these various private ---

18 **MR. DILAMARTER:** That's correct.

19 **MR. ENGELMANN:** Mr. Dilamarter, those are my
20 questions of you. Some of the counsel here may have
21 questions and they'll be identifying themselves and who
22 they represent when they do so.

23 Thank you for your evidence.

24 **MR. DILAMARTER:** Thank you.

25 **THE COMMISSIONER:** Thank you.

1 Mr. Manson.

2 **MR. MANSON:** Thank you.

3 It will just take me a second to get myself
4 organized.

5 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

6 **MANSON:**

7 **MR. MANSON:** Mr. Dilamarter, am I
8 pronouncing your name correctly?

9 **MR. DILAMARTER:** You are, sir.

10 **MR. MANSON:** My name is Allan Manson and I'm
11 one of the counsel for the Citizens for Community Renewal.

12 Maybe we'll look at bus drivers first. Mr.
13 Engelmann drew your attention to Tab 25; that was the 1994
14 regulation that prohibited anyone from getting a bus
15 driver's licence if they had been convicted within the past
16 five years of various sexual offences involving children.
17 This is section 13(2)(3) of that regulation.

18 Did you have any concerns about anyone who
19 may have been convicted more than five years prior to their
20 employment with you?

21 **MR. DILAMARTER:** I guess unfortunately that
22 -- your normal regulation was there and knowing that you
23 had another group that were responsible for hiring their
24 drivers, and among all the other things that were going on
25 within the system that you were responsible for, obviously

1 you had a lot of concerns about students, as you can see
2 from some of the things that we did. But were we
3 concerned? We're always concerned about children.

4 **MR. MANSON:** But there was no -- Mr. Leger
5 told us that up to the end of his tenure in 1988, there was
6 no policy that mandated any screening of bus drivers, and
7 from your examination earlier I don't see any ---

8 **MR. DILAMARTER:** There was not, sir.

9 **MR. MANSON:** --- during your tenure either.

10 **MR. DILAMARTER:** No, there was not, sir.

11 **MR. MANSON:** Thank you.

12 Could we look at Tab 10 briefly, please?
13 This is the Child Abuse Protocol and it's dated April 1989.
14 Can you tell me how long this was in
15 operation?

16 **MR. DILAMARTER:** The abuse protocol was a
17 written form of what Mr. Leger described for you before.
18 Basic procedures were followed before. We just put it in
19 black and white because of the fact that I was a new
20 director, because of the fact that we had principal
21 changes, and because of the fact that I thought under my
22 leadership it needed to be in written form.

23 **MR. MANSON:** But can you tell me how long it
24 was operative? It's dated 1989.

25 **MR. DILAMARTER:** How long it was ---

1 MR. MANSON: Yes. Did it remain ---

2 MR. DILAMARTER: It remained in effect from
3 the time it was authorized until the time I left the system
4 and the time to attend any board forum.

5 MR. MANSON: So during your tenure?

6 MR. DILAMARTER: Yes. Yes, sir.

7 MR. MANSON: Basically 1988 to 1998?

8 MR. DILAMARTER: Basically in -- yes, it was
9 '98.

10 MR. MANSON: This was ---

11 MR. DILAMARTER: This was our policy, yes.

12 MR. MANSON: Now, you mentioned yesterday
13 that it was basically a consolidation of some informal
14 policies that had existed before.

15 MR. DILAMARTER: Yes, it was.

16 MR. MANSON: Can you tell us whether any
17 parts of it were new, or were these all the informal
18 policies?

19 MR. DILAMARTER: Most of the wording of that
20 policy, you'll notice, is taken from the *Child and Family*
21 *Services Act*. So for the terminology there was nothing new
22 in there prior to '84. Differences ---

23 MR. MANSON: Eighty-nine ('89)?

24 MR. DILAMARTER: I know, but in '84 the
25 *Child and Family Services Act* came into effect.

1 **MR. MANSON:** Yes. Actually November of 1985
2 but it's dated 1984.

3 **MR. DILAMARTER:** I don't think there was
4 anything in that policy that when I was a superintendent I
5 wouldn't have understood that I would be responsible for.
6 I just think they made it a lot clearer to staff by having
7 it on paper and by doing in-service with them.

8 **MR. MANSON:** Well, could we look in
9 particular at the school procedure? This would be at page
10 5 subsection (e).

11 You're confident that this was the procedure
12 that was being applied between 1984 and 1989?

13 **MR. DILAMARTER:** To the best of my
14 knowledge, yes.

15 **MR. MANSON:** But no one wrote it down?

16 **MR. DILAMARTER:** No one wrote it down, sir.

17 **MR. MANSON:** So it wouldn't have been
18 circulated in writing to your principals?

19 **MR. DILAMARTER:** No, not until '89 when we
20 prepared the policy.

21 **MR. MANSON:** So how would you communicate
22 that detailed procedure to the principals?

23 **MR. DILAMARTER:** As Mr. Leger told you
24 earlier, any new legislation that did come out that
25 pertained to children was certainly drawn to the attention

1 of principals at principals' meetings and at the area
2 principals' meetings as well. So when this legislation,
3 the *Child and Family Services Act*, came out, that certainly
4 would have been drawn to their attention. Our special
5 education staff had been doing the same thing as they were
6 traveling around from school to school.

7 **MR. MANSON:** Earlier Mr. Engelmann referred
8 you to Tab 13, which was the coordinated protocol that
9 involved the police, the Ministry of the Attorney General,
10 Children's Aid, and your testimony was that it reflected
11 your practices as indicated in Tab 10?

12 **MR. DILAMARTER:** Yes, I did.

13 **MR. MANSON:** Now, can we go back to Tab 10
14 and look at the school procedure for a moment?

15 I take it that you required your teachers to
16 report to the principal a well-founded suspicion of abuse
17 prior to making their report to the CAS?

18 **MR. DILAMARTER:** That's true.

19 **MR. MANSON:** And you reserve for your
20 principal the role to offer his or her view on whether a
21 report should be made?

22 **MR. DILAMARTER:** And that's true too.

23 **MR. MANSON:** But then at the end you make it
24 clear that it's the teacher's responsibility to decide
25 about reporting.

1 **MR. DILAMARTER:** That's true. If the
2 principal had not made the report -- and this is done in
3 discussion between the teacher and the principal -- and if
4 the principal had determined that in his own judgment or
5 her own judgment that there were not reasonable grounds,
6 the principal was also expected to tell that teacher there
7 and report back to the teacher and the teacher could
8 proceed if she or he still felt there were reasonable
9 grounds to make the report.

10 **MR. MANSON:** Now, in order for the principal
11 to make that determination, there would have to be some
12 information gathering.

13 **MR. DILAMARTER:** That's right.

14 **MR. MANSON:** And would that involve, I take
15 it, meeting with the student?

16 **MR. DILAMARTER:** It may involve meeting with
17 a student. It more than likely would be as informal as
18 possible so that you didn't put the child in an awkward
19 situation. I mean, you have to remember, neither the
20 principal nor the teacher were expected or wanted to or
21 asked to investigate. They're just to determine if there
22 were reasonable grounds. So what the principal would be
23 trying to verify is precisely what the teacher had told
24 him.

25 **MR. MANSON:** But you'd agree with me that

1 you'd expect the principal to meet with the child?

2 **MR. DILAMARTER:** Yes, quite possible, yes.

3 **MR. MANSON:** Now, I'm suggesting you're
4 putting the teacher in a difficult position here. You're
5 reminding the teacher that it's your responsibility, but
6 your setting up a situation where there could be conflict
7 between the teacher's view and the principal's view.

8 **MR. DILAMARTER:** That's absolutely true.

9 **MR. MANSON:** Did principals at this time --
10 this is 1989 -- get any specialized training in dealing
11 with sexual abuse of children?

12 **MR. DILAMARTER:** Not to the best of my
13 knowledge, no.

14 **MR. MANSON:** So they wouldn't have any
15 training?

16 **MR. DILAMARTER:** Some of our principals
17 would have had a lot of special education background,
18 depending on their qualifications, yes.

19 **MR. MANSON:** But they wouldn't have had any
20 special training ---

21 **MR. DILAMARTER:** No.

22 **MR. MANSON:** --- dealing with how to
23 interrogate victims of sexual abuse?

24 **MR. DILAMARTER:** No, and we were not asking
25 them to interrogate victims.

1 **MR. MANSON:** But you were expecting them to
2 meet with the children who were potentially victims of
3 sexual abuse?

4 **MR. DILAMARTER:** We were asking them to, in
5 an informal way, determine whether the allegations had a
6 reasonable basis.

7 **MR. MANSON:** You made reference earlier to
8 the discipline about offences. I believe this was Tab 23.
9 This is the 1996 regulation "Professional Misconduct".

10 Can you please scroll down to I think it's
11 number 27? There it is. "Failing to comply with the
12 member's duties under the *Child and Family Services Act*"
13 was deemed to be professional misconduct; is that correct.

14 **MR. DILAMARTER:** That's correct.

15 **MR. MANSON:** During your tenure, was any
16 teacher in your Board disciplined for failing to comply?

17 **MR. DILAMARTER:** Not to the best of my
18 knowledge, no.

19 **MR. MANSON:** Thank you.

20 When you were talking about Tab 18 and
21 mentioned that you recalled -- this is "Selection
22 Procedures". You recalled discussions about police checks
23 with respect to volunteers but no action was taken.

24 Can you tell me if you can remember when
25 those discussions took place?

1 **MR. DILAMARTER:** I was trying to remember
2 that last night. I can remember the discussions at an in-
3 council. I can remember the discussions provincially at
4 OPS which is the Supervisory Officers Group. And I, for
5 the life of me, can't remember when it was. It was towards
6 the end of my tenure as director and it was -- it would
7 have to be somewhere in the '95-'96 era. But we never, to
8 the best of my knowledge, implemented any procedure where
9 you demanded a police check, but we were in the discussion
10 stages, as a lot of people were, I think, at that time
11 about how you would do it and about who you would involve
12 in that.

13 **MR. MANSON:** And I recall one of the
14 comments that you made was that there wasn't complete
15 agreement that you should be moving aggressively in this
16 direction because I think you said a lot of the volunteers
17 were people that the community knew.

18 **MR. DILAMARTER:** Well, there was two issues
19 really; one is your employees that you hire, and that's a
20 fairly clear issue that you can make some determinations
21 once you're comfortable with what you're doing and you have
22 a procedure.

23 The second issue is when you're dealing
24 with, you know, 40 or 50 schools in operation at that time
25 and you've got -- people have been working in the school

1 and, you know, it's Johnny's grandma from grade 3 who's
2 been coming in and serving hotdogs in the school for years
3 or helping in the kindergarten class. So there were a lot
4 of communities, I think, who were saying, "We don't need
5 this we're comfortable with ours".

6 That doesn't mean you shouldn't pursue with
7 it, but certainly you want to listen to your community.

8 **MR. MANSON:** It was a common attitude that
9 because many volunteers were familiar to the school staff
10 that there may not be the need that might exist in large
11 cities for example.

12 **MR. DILAMARTER:** And I think it was a
13 learning curve that we were going through. You know, it's
14 too bad in some cases that we don't go through this
15 learning curve earlier, but nowadays, I mean, on several
16 boards where I volunteer there's a criminal check done. My
17 wife volunteers at the hospital and there's a criminal
18 check done and it's common practice. It wasn't common
19 practice then and maybe it should have been.

20 **MR. MANSON:** But you'll agree with me that
21 one of the reasons was the notion of familiarity, wouldn't
22 you?

23 **MR. DILAMARTER:** Oh, yes. Oh, yes.

24 **MR. MANSON:** Which was similar -- you were
25 here yesterday when Mr. Leger gave his evidence?

1 MR. DILAMARTER: Yes, I was.

2 MR. MANSON: He made a similar comment about
3 bus drivers during his tenure, that they were often local
4 people and ---

5 MR. DILAMARTER: That's true.

6 MR. MANSON: And so familiarity again was a
7 reason not to be especially concerned.

8 MR. DILAMARTER: M'hm.

9 MR. MANSON: Is that correct?

10 MR. DILAMARTER: That's true.

11 MR. MANSON: Thank you.

12 MR. DILAMARTER: Rightly or wrongly.

13 MR. MANSON: Yes.

14 Can we look at Tab 13 for a minute again?

15 This is the coordinated protocol from 1992 that Mr.

16 Engelmann referred you to.

17 MR. DILAMARTER: That's not my 13, but I'll
18 find it.

19 MR. MANSON: It's up. It's your 12, it's
20 our 13 and it's entitled "Child Sexual Abuse Protocol".

21 MR. DILAMARTER: All right. I found it.

22 MR. MANSON: This is the June -- it was
23 signed June 30th, 1992.

24 MR. DILAMARTER: Yes.

25 MR. MANSON: By -- can we just go through

1 the list of agencies that participated?

2 MR. DILAMARTER: Do you want me to read them
3 or do you?

4 MR. MANSON: If we just stop there, looking
5 at the signatures, we have the Ontario Provincial Police,
6 the Cornwall Police Services, Stormont, Dundas and
7 Glengarry Roman Catholic School Board, Stormont, Dundas and
8 Glengarry County Board, the Children's Aid Society, the
9 Administrator of the Religious Hospitaliers of St. Joseph
10 and the local Crown Attorney; correct?

11 MR. DILAMARTER: Those are the signees, yes.

12 MR. MANSON: Were any other local agencies
13 or institutions invited to participate in this process?

14 MR. DILAMARTER: Not to the best of my
15 knowledge. I wasn't directly involved, but not to the best
16 of my knowledge and that's by the representation on the
17 committee it seems to me that these are the groups that are
18 represented.

19 MR. MANSON: Can we look at the section
20 called "Reasonable Grounds to Suspect", please? I think
21 it's -- my note says page 6, but that may be page 6 of the
22 file rather than page 6 of the document.

23 MR. DILAMARTER: Page 6, item 7.

24 MR. MANSON: Keep going. Keep going. There
25 -- oh, you just passed it. Yes, "Reasonable Grounds to

1 Suspect".

2 "The professional who makes a report to
3 the Children's Aid Society needs to
4 have reasonable grounds to suspect
5 child abuse. However, he/she need only
6 to gain enough information to confirm
7 or deny his/her suspicion."

8 If I could just take you back to our
9 discussion a few minutes ago, this is what you were talking
10 about in terms of the principal's role in relation to the
11 teacher coming to the principal about a concern over abuse?

12 **MR. DILAMARTER:** That's true.

13 **MR. MANSON:** "...need only to gain enough
14 information to confirm or deny his/her
15 suspicion. It is not his/her
16 responsibility to engage in
17 investigatory activities..."

18 Correct?

19 **MR. DILAMARTER:** That's correct.

20 **MR. MANSON:** Now, if we go forward to, I
21 believe, page 11 of the document which is page 18 of the
22 file, Mr. Engelmann referred you to the section entitled --
23 can we just get the title -- "Follow-up to the initial
24 report (at school)". It seems to me that this whole
25 section starts with "Where a report of intra-familial child

1 sexual abuse originates from the school", indicating that
2 everything that comes afterward is after the teacher or
3 principal has contacted the civil authorities.

4 MR. DILAMARTER: Yes, correct.

5 MR. MANSON: So it presupposes the procedure
6 that you were talking about a minute ago where teacher
7 reports to principal; principal determines whether there is
8 sufficient information and either makes the report or tells
9 the teacher there will be no report and then leaves the
10 ball in the teacher's hands.

11 MR. DILAMARTER: Yes.

12 MR. MANSON: So at this point in 1992, all
13 of these agencies, including the OPP and the Cornwall
14 Police, were content that your people speak to potential
15 victims of child abuse prior to determining whether there
16 was sufficient information.

17 MR. DILAMARTER: To determine whether there
18 was reasonable grounds to make a report.

19 MR. MANSON: Yes, but you'd agree with me
20 that all these agencies were content that your principals
21 speak to potential victims of child abuse?

22 MR. DILAMARTER: That seems to be the case,
23 yes, with both our Board and the Separate Board.

24 MR. MANSON: No one was saying, "We want our
25 specialized people in there at the drop of a hat". That's

1 not what this document says, correct?

2 **MR. DILAMARTER:** What this document says is
3 that when there is a reasonable ground that's been
4 reported, that they will come in and they will follow the
5 procedures outlined.

6 **MR. MANSON:** Exactly, exactly.

7 But you agree with me that the document
8 contemplates your people conduct the first stage?

9 **MR. DILAMARTER:** Our people determine --
10 you're putting words in my mouth. What this says ---

11 **MR. MANSON:** No, no, no, I don't want to put
12 words in your mouth. Let me just finish. Your people
13 conduct the first stage which is determining whether there
14 is sufficient information to suspect.

15 **MR. DILAMARTER:** Our people would determine
16 whether there were reasonable grounds to report.

17 **MR. MANSON:** And your internal processes
18 were accepted by the other agencies and incorporated in
19 this 1992 document?

20 **MR. DILAMARTER:** In accordance with what it
21 says in here, yes.

22 **MR. MANSON:** I have one question that may be
23 more of a curiosity but in your document, Tab 11, "Dealings
24 with the police", which I believe is a 1994 document -- no,
25 I think it's "Interrogation of pupils", yes, "by police in

1 public". If you can just turn to the third page, "Royal
2 Canadian Mounted Police". I apologize for my ignorance,
3 but I'm just not sure what this is all about.

4 **MR. DILAMARTER:** This is item "C".

5 **MR. MANSON:** Yes.

6 **MR. DILAMARTER:** I, for the life of me,
7 cannot remember why we had that and I am sure that we had
8 some wonderful advice from a legal firm that told us that
9 that was necessary, but I don't know why.

10 **MR. MANSON:** And this is 1994?

11 **MR. DILAMARTER:** Yes.

12 **MR. MANSON:** I would suggest to you that
13 it's about writs of assistance that were deemed
14 unconstitutional in 1984.

15 **MR. DILAMARTER:** It could have been. I
16 don't know, sir.

17 **MR. MANSON:** Thank you. Those are all my
18 questions.

19 **MR. DILAMARTER:** Thank you.

20 **THE COMMISSIONER:** Thank you.

21 Mr. Lee?

22 **MR. LEE:** I have no questions, Mr.
23 Commissioner.

24 **THE COMMISSIONER:** Thank you.

25 Mr. Bennett is not here, so Mr. Chisholm is

1 up.

2 MR. CHISHOLM: Good morning, sir.

3 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

4 CHISHOLM:

5 MR. CHISHOLM: Good morning, Mr. Dilamarter.

6 My name is Peter Chisholm. I am counsel for the local
7 Children's Aid Society.

8 If I could take you to Tab 10, the document
9 that you've been referred to. This is the April 1989 Child
10 Abuse Protocol. Do you have that before you, sir?

11 MR. DILAMARTER: Yes, sir.

12 MR. CHISHOLM: I take it, sir, from your
13 evidence yesterday that you have no recollection of being
14 involved in the development of this protocol. Is that
15 correct?

16 MR. DILAMARTER: No, I don't recall being
17 involved in the development.

18 MR. CHISHOLM: And yesterday you spoke of --
19 you came with the idea to develop a manual of operations
20 where you gathered pre-existing policies and in some cases
21 created new ones. Is that correct?

22 MR. DILAMARTER: That's correct.

23 MR. CHISHOLM: Can you tell us, sir, if the
24 policy that we see at Tab 10 existed in written form prior
25 to April of 1989?

1 **MR. DILAMARTER:** I do not believe it did.

2 **MR. CHISHOLM:** You're of the view then that
3 it was drafted around -- in the year prior to its approval,
4 in the year, year and a half prior to April of 1989. Is
5 that right?

6 **MR. DILAMARTER:** It was drafted by members
7 of our special education staff in consultation with CAS in
8 that period.

9 **MR. CHISHOLM:** Now, you told us about --
10 yesterday, you told us about a specialized superintendent
11 and specialized staff within the Board.

12 **MR. DILAMARTER:** Yes.

13 **MR. CHISHOLM:** Can you tell us the names of
14 those individuals?

15 **MR. DILAMARTER:** This is 1989. Obviously,
16 the Coordinator of Special Education was David Hill. I
17 guess David Hill had been there for a long time. We had on
18 staff as well -- I think at that time it was either Bill
19 Roddy or it could have been Carl Duncan as Superintendent
20 responsible for Special Education. It was one or the
21 other. David would have done the legwork in connection
22 with this policy.

23 **MR. CHISHOLM:** So David Hill?

24 **MR. DILAMARTER:** David Hill.

25 **MR. CHISHOLM:** And you're not certain as to

1 Mr. Roddy or Mr. Duncan. Is that ---

2 MR. DILAMARTER: No, it's one or the other
3 and it just -- and I can't recall when Bill came into the
4 position.

5 MR. CHISHOLM: But certainly Mr. Hill was?

6 MR. DILAMARTER: Absolutely.

7 MR. CHISHOLM: And with respect to -- that
8 would be with respect to the specialized superintendent
9 that you referred to yesterday?

10 MR. DILAMARTER: No. He wasn't the
11 superintendent. The Specialized Superintendent of Special
12 Education would have either been Mr. Duncan or Mr. Roddy
13 and David was our Coordinator of Special Education.

14 MR. CHISHOLM: Any other staff members that
15 you're aware of who would have been involved in the
16 development of this policy?

17 MR. DILAMARTER: I couldn't tell you
18 exactly. We had psychologists. We had psychometrists and
19 any one of them could have been involved in the process. I
20 think more than likely it was involved with -- between
21 David and CAS and Bill Roddy or Carl Duncan and with
22 someone -- but perhaps with principals because we quite
23 often wanted the principals involved so that they would
24 have some understanding or we would have some understanding
25 of whether or not they're comfortable with it and perhaps

1 in some cases -- in this particular case -- whether or not
2 they could be -- their people would help us with the
3 implementation of it.

4 **MR. CHISHOLM:** Do you know, sir, whether any
5 previous drafts of this policy exist? In your preparation
6 for giving your evidence did you come across any previous
7 drafts?

8 **MR. DILAMARTER:** I don't know. I haven't
9 found any, no.

10 **MR. CHISHOLM:** Do you know if any minutes of
11 any committee meetings exist with respect to the
12 preparation of this policy?

13 **MR. DILAMARTER:** I don't know of any, no.

14 **MR. CHISHOLM:** You didn't find any in
15 preparing for your testimony?

16 **MR. DILAMARTER:** No.

17 **MR. CHISHOLM:** You told us yesterday and
18 today that members of your Board worked in conjunction with
19 the CAS. Can you tell us who from the CAS worked with you
20 or worked with the Board on this policy?

21 **MR. DILAMARTER:** We had excellent
22 cooperation from the CAS throughout my tenure and if I
23 recall correctly it was Bill Carriere.

24 **MR. CHISHOLM:** Do you recall any other names
25 from the CAS?

1 **MR. DILAMARTER:** No, I don't, sir.

2 **MR. CHISHOLM:** How sure are you with respect
3 to your recollection of Bill Carriere?

4 **MR. DILAMARTER:** Well, I can still remember
5 him standing in at a principals' meeting helping us
6 implement it and that's why I'm 99.9 per cent sure Bill was
7 involved in it.

8 **MR. CHISHOLM:** Do you have -- did you keep
9 minutes of principals' meetings?

10 **MR. DILAMARTER:** No.

11 **MR. CHISHOLM:** Never?

12 **MR. DILAMARTER:** Never.

13 **MR. CHISHOLM:** With respect to agendas of
14 principals' meetings, would you have kept any of those?

15 **MR. DILAMARTER:** We wouldn't have kept any,
16 but we always had an agenda to make sure that we covered
17 the issues and we usually had -- our principals' meeting
18 was usually arranged in the morning. There were
19 administration issues of budgets and so forth and the
20 latter part of the morning and the afternoon was usually
21 devoted to some sort of implementation of something that
22 was coming along, whether it be this or a curriculum issue.

23 **MR. CHISHOLM:** Would it be possible -- do
24 you recall Bill Carriere attending a principals' meeting to
25 speak of other issues related to the Children's Aid Society

1 as opposed to this particular policy?

2 **MR. DILAMARTER:** Probably involved in both
3 this policy and I would suspect the second one, the one
4 that came out from the group.

5 **MR. CHISHOLM:** But I just -- I want to just
6 explore your recollection of Bill Carriere's attendance at
7 the principals' meeting. Can you recall when this meeting
8 was?

9 **MR. DILAMARTER:** This is 1989. Now, it's
10 2007. I have trouble with last week. No, I do not recall.

11 **MR. CHISHOLM:** How many principals' meetings
12 do you recall Bill Carriere attending at during your
13 tenure?

14 **MR. DILAMARTER:** I would imagine two or
15 three, Bill was involved with.

16 **MR. CHISHOLM:** Not always -- what subjects
17 were covered? Do you recall that?

18 **MR. DILAMARTER:** I know it centred around
19 this particular issue, as I remember.

20 **MR. CHISHOLM:** This particular issue being
21 child ---

22 **MR. DILAMARTER:** Child sexual abuse.

23 **MR. CHISHOLM:** --- sexual abuse ---

24 **MR. DILAMARTER:** Yes.

25 **MR. CHISHOLM:** --- and not necessarily this

1 policy?

2 MR. DILAMARTER: That's right.

3 MR. CHISHOLM: Is that fair to say?

4 MR. DILAMARTER: That's fair to say.

5 MR. CHISHOLM: Is it possible Mr. Carriere
6 could have attended a principals' meeting to discuss duty
7 to report as set out in the legislation?

8 MR. DILAMARTER: Absolutely. He would have
9 been there, yes. Very possible.

10 MR. CHISHOLM: Do you have -- in preparing
11 for your testimony, did you come across any correspondence
12 from the School Board to the Children's Aid Society with
13 respect to introducing this policy to the Children's Aid
14 Society?

15 MR. DILAMARTER: No, sir.

16 MR. CHISHOLM: In preparing for your
17 testimony, did you come across any correspondence from the
18 Children's Aid Society to the School Board setting out the
19 Society's comments with respect to this policy?

20 MR. DILAMARTER: No, sir.

21 MR. CHISHOLM: If I could take you to page 5
22 of the hard copy -- page 7 of the electronic version, Madam
23 Clerk -- and specifically, sir, to the Part E, School
24 Procedure.

25 Do you have that, Mr. Dilamarter?

1 MR. DILAMARTER: You're on ---

2 MR. CHISHOLM: I'm at the Tab ---

3 MR. DILAMARTER: --- School Procedure, page
4 6.

5 MR. CHISHOLM: It's page 7, electronic
6 version. I thought it was page ---

7 MR. DILAMARTER: I've got the right page.

8 MR. CHISHOLM: Page 5 of the hard copy,
9 halfway down, we have "School Procedure".

10 Do I take it, sir, that this policy provided
11 some discretion to a principal in determining whether or
12 not the grounds existed that they contact the Children's
13 Aid Society?

14 MR. DILAMARTER: What the policy was
15 designed to do was to tell the principals what their
16 responsibilities were in accordance with the *Child and*
17 *Family Services Act* and what our expectations were of them.

18 MR. CHISHOLM: But I take it you would agree
19 with me that under this policy the principal has discretion
20 as to whether or not -- when a teacher comes to the
21 principal ---

22 MR. DILAMARTER: Yes.

23 MR. CHISHOLM: --- he or she has discretion
24 as to whether or not each side will be contacted?

25 MR. DILAMARTER: It's true. And it doesn't

1 in the principal -- and when we did the in-service for
2 this, we stressed that the principal doesn't take the
3 responsibility away from the teacher. I would think that
4 most of our principals would listen very carefully to their
5 teachers if they felt -- because the teachers were the ones
6 that actually had the most contact with the children.

7 **MR. CHISHOLM:** The policy stresses that at
8 the end of the day the responsibility remains with the
9 teacher ---

10 **MR. DILAMARTER:** That's true.

11 **MR. CHISHOLM:** --- or the employee -- not
12 just the teacher but the employee of the Board. Is that
13 right?

14 **MR. DILAMARTER:** The key reasons for having
15 the principal involved, if I remember correctly, is because
16 the principal was the manager of the school and, in
17 essence, what happened afterwards would be something the
18 principal would need to support and facilitate.

19 **MR. CHISHOLM:** Well, would the principal
20 have to support the teacher -- if the principal disagreed
21 with the teacher's view as to the triggering grounds that
22 existed to contact the CAS, if the principal didn't agree -
23 --

24 **MR. DILAMARTER:** The principal would still
25 have to support that teacher if that teacher made a report,

1 yes, because the principal would still be dealing with the
2 CAS and the police on the issue.

3 **THE COMMISSIONER:** But, sir, let's assume
4 you've got a rookie teacher and you've got a principal
5 that's been there for 20 years, the teacher comes up and
6 says, "You know, I think we should report this", and the
7 principal says, "No, I don't think so." Isn't there a
8 little bit of a power imbalance there that the rookie
9 teacher would say, "Well, you probably know best, so I'll
10 stay quiet"?

11 **MR. DILAMARTER:** It could very well have
12 been, sir.

13 **THE COMMISSIONER:** Sorry, Mr. Chisholm, go
14 ahead.

15 **MR. CHISHOLM:** That's all right. Thank you,
16 Mr. Commissioner.

17 You would agree with me, Mr. Dilamarter,
18 that the introduction of the principal into the mix adds an
19 extra layer that's not necessary in this policy?

20 **MR. DILAMARTER:** It adds an extra layer
21 that's not necessary from the standpoint of reporting. It
22 was there, in my estimation, because of the managerial
23 duties of the school.

24 **MR. CHISHOLM:** If I could take you again on
25 page 5 under Item 2 and School Procedure, the second bullet

1 which is "interviewing the child".

2 I have heard what you said yesterday and
3 today about it wasn't the principal's role to conduct an
4 investigation, but this policy suggests that the principal
5 interview the child. Am I correct in my understanding?

6 **MR. DILAMARTER:** It only got carried out in
7 the normal daily observations and discussions. Having been
8 a principal for 17 years, I can recall there were lots of
9 things that you can learn with the kids in the play yard,
10 and that probably would be the way, if I was a principal, I
11 would determine this.

12 **MR. CHISHOLM:** Did this, sir, back then or
13 now, ever raise any concerns in your mind with respect to
14 potential contamination of a child witness by the principal
15 interviewing the child?

16 **MR. DILAMARTER:** In fact, I think that's one
17 of the things we tried to emphasize as much as we could
18 that you do not do that. You are not investigating whether
19 it happened. You're just investigation whether or not the
20 allegations are reasonable, the reasonable chance that it
21 may have happened. We tried to do everything we could to
22 support the child, to make the child feel comfortable.

23 **MR. CHISHOLM:** Can you give me, Mr.
24 Dilamarter, an example of the type of questions that you
25 would expect the principal to put to the child in that

1 interview?

2 **MR. DILAMARTER:** I couldn't without knowing
3 what the circumstances were, no.

4 **MR. CHISHOLM:** Let me give you a
5 hypothetical.

6 **MR. DILAMARTER:** Okay.

7 **MR. CHISHOLM:** A child makes a complaint to
8 his teacher wherein the child advises the teacher that the
9 child's uncle was sexually abusing the child. The abuse
10 took place last weekend.

11 **MR. DILAMARTER:** If I was a principal under
12 those circumstances, I would do no investigation. I would
13 just consider that reasonable grounds and I would go along
14 with the teacher.

15 If, for instance -- and I'm just thinking of
16 another example -- if ---

17 **MR. CHISHOLM:** Let's back up. If I could
18 just stop you there. The child tells the teacher. The
19 teacher follows this policy, advises the principal. You,
20 as principal, would not go to ---

21 **MR. DILAMARTER:** I would report the
22 incident, yes ---

23 **MR. CHISHOLM:** Without speaking to the child
24 or observing the child?

25 **MR. DILAMARTER:** --- in those circumstances,

1 yes.

2 **MR. CHISHOLM:** Can you tell me, Mr.
3 Dilamarter, in what circumstances you could envision where
4 you would speak to the child to either observe the child or
5 interview the child?

6 **MR. DILAMARTER:** In a circumstance where a
7 teacher has said to the principal, "Little Johnny seems to
8 have some bruises, and I suspect perhaps little Johnny is
9 being beaten by a father or mother or somebody." I would
10 find little Johnny in the schoolyard and have a little chat
11 with him about "what happened? How did -- you've been
12 hurt? What happened?" And if I suspected -- I went back
13 to the teacher and discuss, "I think we should report
14 this."

15 If on the other hand, the child said, "I was
16 playing hockey last night, and I was body-checked and
17 that's how I ended up with it," I would more than likely
18 think twice about it, but I would be monitoring that case
19 very carefully.

20 **MR. CHISHOLM:** And in situations where
21 you're thinking twice about it, would you go back to the
22 teacher who made the report to you and have further
23 discussion with him or her?

24 **MR. DILAMARTER:** I think you're focusing on
25 a sexual abuse issue, and this policy deals with a lot

1 beyond sexual abuse. It deals with emotional abuse and
2 physical abuse. More than likely what we saw a lot of
3 within the schools would be children who have bruises or
4 children who have supposedly -- kids fall down and kids get
5 hurt, and those are the ones that I would think the
6 teachers and the principals would be having discussions
7 about, "Is this normal? Has Johnny come to school like
8 this before?" If it is a new teacher, for instance, she or
9 he may not know that and he may be a karate champion of
10 some sort or other. I mean, there's things that you need a
11 little bit of discussion with your principal or between
12 your principal and your teacher to understand
13 circumstances, but the key is to protect the child.

14 This policy does not just deal with sexual
15 abuse. If it was a sexual abuse issue, the principal -- in
16 100 per cent of the cases, I would not hesitate to call.
17 If it was a case of a bruise, it might be a little bit
18 different.

19 **MR. CHISHOLM:** Just going back to -- I would
20 accept your comments that this policy is wider than sexual
21 abuse, but if we just take situations of sexual abuse, am I
22 understanding your evidence to be that you would not expect
23 principals to conduct interviews with a child where there
24 are allegations of sexual abuse?

25 **MR. DILAMARTER:** I would doubt whether they

1 would bother to do that at that particular point in time.
2 I think, as I recall, the whole policy dealing with
3 emotional and physical neglect and all of the rest of the
4 things, it could be anything from Johnny coming to school
5 and falling asleep because he hasn't had breakfast in the
6 morning. We had a lot of situations where parents weren't
7 feeding their children. We would provide a breakfast
8 program.

9 If it was a sexual abuse issue, I would
10 venture to guess that our direction to the principals at
11 that meeting -- and I don't recall saying these words or
12 that one reported -- but we were talking about different
13 types of abuse. Now, this was a time in our community of
14 Cornwall, plus other communities around S, D and G and in
15 Dundas, were leaving the children whose parents were out of
16 work; parents were -- there was unemployment and it was a
17 tough time for the parent as well. So we had to find ways
18 to helping those parents. We are not just talking the
19 kids; it happened to those parents.

20 We started in some of our schools breakfast
21 programs. We started early school arrival programs. There
22 were a whole host of things that helped deal with the
23 community that came out of this policy, part of this
24 policy. This policy does not focus on just sexual abuse.

25 **MR. CHISHOLM:** Thanks, sir. Those are my

1 questions.

2 **MR. DILAMARTER:** Thank you.

3 **THE COMMISSIONER:** Before you leave, Mr.
4 Chisholm, I might ask him a couple of questions and you may
5 have something arising.

6 **MR. CHISHOLM:** Thank you, Mr. Commissioner.

7 **THE COMMISSIONER:** So, sir, let's assume for
8 a moment that little Johnny reports to the rookie teacher
9 that the popular phys ed teacher in primary school or
10 something touched him in a sexual manner. Would you --
11 back in those days, would the principal have gone to talk
12 to the phys ed teacher before reporting or would that have
13 entered in the mix at all?

14 **MR. DILAMARTER:** No, in those circumstances,
15 we would expect the principal to contact the superintendent
16 because that's a physical abuse or an abuse situation with
17 a staff member, and we would get the staff member out of
18 the classroom before we proceeded with any sort of action
19 and then call CAS.

20 **THE COMMISSIONER:** Sir, let's say it was an
21 allegation of a sexual assault.

22 **MR. DILAMARTER:** Yes.

23 **THE COMMISSIONER:** All right. And you're
24 saying then that back then, your policy would have been not
25 to speak to the teacher. So if it was the teacher with 20

1 years experience in, you know, "This person said this" and
2 ---

3 **MR. DILAMARTER:** And that was particularly
4 why we didn't want them to talk because the principal could
5 have been in the school for 10 of those 20 years. If there
6 was an allegation against a teacher, the superintendent
7 makes the objective decision. He calls the Children's Aid
8 Society -- he or she calls the Children's Aid Society. The
9 teacher is then removed until such time as an investigation
10 occurs. It was partly our responsibility to see what that
11 teacher has been doing as well, but we don't want to in any
12 way interfere. We don't want our staff to be interfering
13 with the investigation.

14 **THE COMMISSIONER:** Did that policy evolve
15 over time or has that been ---

16 **MR. DILAMARTER:** No, it was ---

17 **THE COMMISSIONER:** --- the policy from day
18 one?

19 **MR. DILAMARTER:** That was really part of
20 what Rosaire talked about yesterday. If you have a staff
21 member who is accused by anyone, the first thing you do is
22 you get the staff member out of the situation where he's
23 with or she's dealing with kids and then you let CAS or
24 whoever -- well, CAS or the police do their job. It
25 doesn't neglect or negate your responsibility as a

1 superintendent or as a director to monitor the case and to
2 find out what's happening, but you really have to protect
3 the child. Your role is to protect the child.

4 **THE COMMISSIONER:** Thank you.

5 Mr. Chisholm, do you have anything arising
6 out of that?

7 **MR. CHISHOLM:** No questions arising, Mr.
8 Commissioner.

9 **THE COMMISSIONER:** Thank you. All right.
10 Probations and Corrections, Mr. Rose or
11 Lawless?

12 **MR. ROSE:** No questions.

13 **THE COMMISSIONER:** Mr. Thompson?

14 **MR. THOMPSON:** No questions.

15 **THE COMMISSIONER:** And who else is here?
16 Cornwall Police?

17 **MR. BOIVIN:** No questions.

18 **THE COMMISSIONER:** Merci.

19 OPP?

20 **MS. COSTOM:** No questions.

21 **THE COMMISSIONER:** Thank you.

22 OPPA?

23 **MR. CARROLL:** No questions. Thank you.

24 **THE COMMISSIONER:** And the Upper Canada
25 School Board, any re-examination?

1 **MR. KEEL:** No questions.

2 **THE COMMISSIONER:** Mr. Engelmann?

3 **MR. ENGELMANN:** No re-examination, sir.

4 **THE COMMISSIONER:** Thank you.

5 **MR. ENGELMANN:** I just want to thank Mr.
6 Dilamarter again for attending.

7 **THE COMMISSIONER:** Yes. And I join in that
8 thanks.

9 **MR. DILAMARTER:** Thank you. I wish you a
10 good opportunity to, I think, bring this community together
11 and solve some of the long-term issues. So I wish you the
12 very best and I thank you for the opportunity.

13 **THE COMMISSIONER:** Thank you very much. It
14 might be a good time for a break.

15 We have one more ---

16 **MR. ENGELMANN:** Yes, Mr. Thomas ---

17 **THE COMMISSIONER:** All right.

18 **MR. ENGELMANN:** --- who is the current
19 Director of Education for the Board, and he is ready to go
20 right after the break.

21 **THE COMMISSIONER:** Terrific. Thank you.
22 Let's come back at 11:00.

23 **THE REGISTRAR:** Order all rise.

24 The hearing will resume at 11:00.

25 --- Upon recessing at 10:48 a.m./

1 L'audience est suspendue à 10h48

2 --- Upon resuming at 11:08 a.m./

3 L'audience est reprise à 11h08

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

6 This hearing of the Cornwall Public Inquiry
7 is now in session. Please be seated; veuillez vous
8 asseoir.

9 **MR. ENGELMANN:** Mr. Commissioner, the next
10 witness is Mr. David Thomas. Mr. Thomas is present. If
11 the witness could be sworn.

12 **DAVID THOMAS, Sworn/Assermenté:**

13 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.
14 ENGELMANN:

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

16 **MR. ENGELMANN:** Good morning, Mr. Thomas.

17 **MR. THOMAS:** Good morning.

18 **MR. ENGELMANN:** I'll let you get your
19 materials out.

20 (SHORT PAUSE/COURTE PAUSE)

21 **MR. ENGELMANN:** You should have a Book of
22 Documents, sir.

23 **MR. THOMAS:** Yes.

24 **MR. ENGELMANN:** It has your name on it.
25 Upper Canada District School Board, David Thomas Book of

1 Documents.

2 And I would like you, if you could, just to
3 turn to Tab 2. Do you have that sir?

4 **MR. THOMAS:** Yes, I do.

5 **MR. ENGELMANN:** The Backgrounder is a short
6 biography of your background. Is that correct?

7 **MR. THOMAS:** Yes.

8 **MR. ENGELMANN:** And at Tab 1, as I
9 understand it, sir, that's an outline of your evidence that
10 was prepared by your counsel in consultation with yourself?

11 **MR. THOMAS:** This is true.

12 **MR. ENGELMANN:** All right.

13 And then as I understand it, sir, there are
14 a number of tabs that deal with documents that are
15 referenced in your outline of evidence?

16 **MR. THOMAS:** Yes.

17 **MR. ENGELMANN:** Mr. Commissioner, if the
18 Book of Documents for David Thomas could be the next
19 exhibit. I believe it's Exhibit 54.

20 **THE COMMISSIONER:** That it is. Thank you,
21 yes.

22 --- **EXHIBIT NO./PIÈCE No P-54:**

23 BOOK OF DOCUMENTS - Upper Canada
24 District School Board - David Thomas -
25 Volume 1 - Tabs 1 to 25

1 **MR. ENGELMANN:** Mr. Thomas, I'm happy to say
2 I believe all of the tabs are coordinated, so you shouldn't
3 have any difficulty finding documents when we are referring
4 to them.

5 I would like to ask you, sir, a little bit
6 about your background before we get into your outline.

7 You are currently the Director of Education
8 and Secretary to the Board of Trustees for the Upper Canada
9 District School Board. Is that correct?

10 **MR. THOMAS:** Yes, I am.

11 **MR. ENGELMANN:** Can you tell us how long you
12 have been in that position?

13 **MR. THOMAS:** December 1st, it will be three
14 years.

15 **MR. ENGELMANN:** As I understand it, sir, you
16 are based out of the Board's offices in Brockville?

17 **MR. THOMAS:** Yes.

18 **MR. ENGELMANN:** Do you have occasion to
19 visit various schools within the Board's area in your
20 position as Director?

21 **MR. THOMAS:** Three days of five days, I'm in
22 the field visiting all of my schools spending a
23 considerable amount of time in the Cornwall area. It's a
24 large part of my jurisdiction.

25 **MR. ENGELMANN:** So I understand this would

1 be an important aspect of your work?

2 **MR. THOMAS:** Absolutely.

3 **MR. ENGELMANN:** Can you tell us just briefly
4 about your responsibilities as Director then sir.

5 **MR. THOMAS:** My primary responsibility is to
6 ensure that the Board's strategic plan, the plan that is
7 basically the learning agenda for Eastern Ontario for all
8 the students is understood by the senior team; is
9 understood by all of our principals; makes its way in each
10 and every classroom and at every person who we're
11 responsible to, all stakeholders. Most importantly the
12 students of Eastern Ontario receive the best possible
13 education that we can give them. We believe that going
14 beyond every child's right to learn we, as a board, believe
15 every child will learn with the very high standards that we
16 have set. We believe it's our duty to set a very strong
17 teaching for learning agenda for Eastern Ontario.

18 **MR. ENGELMANN:** Sir, you have responsibility
19 as well as Secretary to the Board of Trustees?

20 **MR. THOMAS:** Yes, I have.

21 **MR. ENGELMANN:** And would those be similar
22 to those duties that were described by Mr. Dilamarter and
23 Mr. Leger?

24 **MR. THOMAS:** Identical.

25 **MR. ENGELMANN:** So prior to taking on the

1 directorship of the Upper Canada District School Board, I
2 understand you were a superintendent of education with the
3 Peel District School Board?

4 **MR. THOMAS:** Yes.

5 **MR. ENGELMANN:** Can you tell us what your
6 responsibilities were there?

7 **MR. THOMAS:** I served in two different
8 families of schools in Peel; the first one in the Malton
9 area and the Bramalea area of Peel District. And at that
10 particular time, I had 26 schools that I supervised and I
11 was responsible for all the duties that were assigned to me
12 by the director. I was to ensure that the school were
13 performing at the best of their ability, and I was to be
14 involved in the appropriate partnerships with police
15 services, boards and different things representing that
16 particular community.

17 Towards the end of my tenure, I was in the
18 south part of Mississauga, the Port Credit and St. Laurent
19 Park area, where again I had similar duties to Malton, just
20 a different neighbourhood.

21 **MR. ENGELMANN:** Okay. So you had those area
22 responsibilities. Did you have what have been called
23 jurisdictional responsibilities as well?

24 **MR. THOMAS:** We would have -- each
25 superintendent would be assigned some area that perhaps

1 they were to have some expertise in. Mine was community
2 outreach, particularly in the multi-cultural pieces, and I
3 was very involved in the reaching out to new Canadians and
4 new stakeholders; that particular group, while I was there.

5 **MR. ENGELMANN:** Did you also have policy
6 responsibilities sir?

7 **MR. THOMAS:** Not as much policy
8 responsibilities. I had to observe and make -- ensure the
9 policies were in place, but I played a role in advising
10 policies and so forth, but I did not spend a great deal of
11 time supervising.

12 **MR. ENGELMANN:** Okay. But a lot of work in
13 community relations with community stakeholders?

14 **MR. THOMAS:** Yes, absolutely.

15 **MR. ENGELMANN:** And prior to that -- well,
16 how long were you in that capacity as superintendent of
17 education with the Peel District School Board?

18 **MR. THOMAS:** Six and a half years.

19 **MR. ENGELMANN:** And prior to that, as I
20 understand it -- well, let's go back to the beginning.
21 You worked first as a teacher?

22 **MR. THOMAS:** Yes.

23 **MR. ENGELMANN:** Can you tell us where you
24 worked as a teacher and for how long?

25 **MR. THOMAS:** I taught in Peterborough, the

1 Peterborough County District School Board, and I taught
2 there as a teacher for five years at the Prince of Wales
3 Public School. I then moved and became a vice-principal in
4 Norwood District Public School within the Peterborough
5 Board and then became the coordinator of special services,
6 special education services. After that, I joined the Peel
7 District School Board as a principal.

8 **MR. ENGELMANN:** All right.

9 So how long were you in Peterborough before
10 you went to Peel?

11 **MR. THOMAS:** Ten years.

12 **MR. ENGELMANN:** That takes us to
13 approximately when, sir, in timeline?

14 **MR. THOMAS:** I think about 1989.

15 **MR. ENGELMANN:** So you had experience as a
16 teacher, as a vice-principal, as a principal. You also had
17 positions as a coordinator, you mentioned?

18 **MR. THOMAS:** Consultant type of job.

19 **MR. ENGELMANN:** All right.

20 Also experience as a superintendent?

21 **MR. THOMAS:** Yes.

22 **MR. ENGELMANN:** So you've worked at sort of
23 every level in the school board system?

24 **MR. THOMAS:** Yes, I have.

25 **MR. ENGELMANN:** By way of background, sir,

1 you have a Bachelor of Science degree, a Bachelor of
2 Education and a Masters of Education?

3 **MR. THOMAS:** Yes.

4 **MR. ENGELMANN:** You have also earned a
5 Supervisory Officer's Certificate?

6 **MR. THOMAS:** Yes.

7 **MR. ENGELMANN:** Can you tell us what that
8 is?

9 **MR. THOMAS:** Approximately -- I would think
10 maybe 15 years ago, but I don't remember. There used to be
11 a period of time where you would go through for your
12 certification to be a supervisory officer with a written
13 test that you'd have in Toronto or Ottawa and then you'd
14 have a formal interview to go through the process. I
15 believe it's 15 years ago; it may not be, they changed the
16 process to a series of two courses that -- very rich
17 courses that take approximately two and half or three years
18 to do and then, upon graduation, you receive your
19 certificate.

20 **MR. ENGELMANN:** I note, sir, on your
21 Backgrounder, you've listed some of the extensive
22 leadership experience that you've had in your career?

23 **MR. THOMAS:** Yes.

24 **MR. ENGELMANN:** I just wanted to ask you the
25 second bullet, "Chair, Ontario Principals' Network". Give

1 us a sense as to what that is.

2 **MR. THOMAS:** Just before I became a
3 superintendent, the Province of Ontario made -- the
4 government of the day determined that principals would come
5 out of the collective bargaining units within the different
6 boards of education. I, at that time, was a part of the
7 leadership in the Peel District School Principals
8 Association. Being involved in that, we knew this was
9 potentially coming, and I was involved in the start-up of a
10 province-wide Principals Association. It was originally
11 called the Ontario Principals Network and then, as it
12 evolved, it became the Ontario Principals Council.

13 **MR. ENGELMANN:** Did that happen at or about
14 the time of the latest amalgamation of school boards in the
15 '90s?

16 **MR. THOMAS:** Yes, it did. My involvement
17 was ended because I became a superintendent right in the
18 middle of all of that as well.

19 **MR. ENGELMANN:** Okay. Sir, I note you've
20 had extensive community experience. You've listed some of
21 those issues that you have been involved in, in a number of
22 communities, on the second page of your Backgrounder. For
23 example, you've had a lot of experience working with United
24 Way Campaigns ---

25 **MR. THOMAS:** Yes.

1 **MR. ENGELMANN:** --- in a leadership role.

2 Is that fair?

3 **MR. THOMAS:** Yes, they find you wherever you
4 happen to be and I'm involved again here in Eastern
5 Ontario.

6 **MR. ENGELMANN:** All right.
7 So that is something that you are currently
8 doing as well?

9 **MR. THOMAS:** Yes, I am.

10 **MR. ENGELMANN:** All right.

11 And you've also been involved with a number
12 of supporting organizations?

13 **MR. THOMAS:** Yes.

14 **MR. ENGELMANN:** And Big Brothers and
15 Sisters, hospital boards, et cetera?

16 **MR. THOMAS:** Yes.

17 **MR. ENGELMANN:** Now, you say at the end that
18 you've had experience drafting and implementing policies,
19 procedures and training with respect to various issues
20 including children in need of protection.

21 Can you just elaborate on that a little bit
22 about what you have done there?

23 **MR. THOMAS:** I have had two experiences in
24 my career professionally and on my volunteer side of my
25 life where I have been involved in these issues of child

1 abuse. One was I chaired a task force, a multi-group task
2 force, in Peterborough where they had the Arbor Theatre
3 Group that had a child's family counselling services, the
4 Board of Education, the Police Services Board and the CAS,
5 and we were involved in a child abuse task force to take a
6 look at child abuse and child abuse prevention in
7 Peterborough, in the public schools in Peterborough.

8 **THE COMMISSIONER:** What timeframe are we
9 talking of?

10 **MR. THOMAS:** About -- again, I believe, '86
11 through to '87.

12 **THE COMMISSIONER:** Okay.

13 **MR. ENGELMANN:** And that would have been --
14 was that part of your permanent work responsibilities or
15 was this over and above as volunteer?

16 **MR. THOMAS:** The director, as directors do,
17 assigned it to me.

18 **MR. ENGELMANN:** Okay.

19 **MR. THOMAS:** And I was to pull the group
20 together and to begin the task force and move the thing
21 forward. It had its -- the beginning had it in the family
22 counselling services office. An executive director there
23 wanted to do something in Peterborough and I had the Board
24 at that particular time believed it was a good cause. The
25 police services board endorsed it and then they chose to

1 use the Metropolitan Child Abuse prevention group as an
2 advocate, as a provider of services, et cetera, and then we
3 moved forward with a program. It took about 18 months I
4 think to pull off.

5 **MR. ENGELMANN:** So you used the Metro
6 Toronto Child Sexual Abuse package as sort of a precedent?

7 **MR. THOMAS:** Yes. If my memory serves me
8 correctly, we signed off an agreement with them to deliver
9 that particular program to the Peterborough community. And
10 it was quite a detailed and precise program and the
11 contract was that we would adhere to all of the details of
12 the program.

13 **MR. ENGELMANN:** Was the culmination of your
14 work, the signing of a multi-party protocol with these
15 various players?

16 **MR. THOMAS:** We -- I actually left to join
17 Peel towards the end of it when those things were starting
18 to move through the different protocols and the
19 recognitions, but prior to entering the project itself,
20 there was agreements signed between the counselling
21 services, the CAS, the Police Services Board, and the Board
22 of Education and the theatre group that was a part of the
23 presentations and the professional development that was
24 involved.

25 **MR. ENGELMANN:** Would they have involved how

1 to detect, investigate, and deal with allegations of child
2 sexual abuse?

3 MR. THOMAS: Yes.

4 MR. ENGELMANN: As part of that, did you
5 have to do any in-service training or other work yourself -
6 --

7 MR. THOMAS: I had extensive ---

8 MR. ENGELMANN: --- when it came to schools?

9 MR. THOMAS: Yes, I had extensive in-service
10 training. I spent hours and hours in Toronto with the
11 child abuse task force they had and, of course, I was the
12 main deliverer of the curriculum that was going to be used,
13 and I provided much of the in-service with the support of
14 the Metropolitan Child Abuse Task Force, and we prepared
15 all of the in-services that were very prescriptive and
16 precise in how many hours the -- where you're supposed to
17 move through and what you had to present to the staff and
18 to the students, et cetera.

19 MR. ENGELMANN: Sir, just by way of
20 background, with that training you would have been involved
21 then in the training of school board employees?

22 MR. THOMAS: Yes.

23 MR. ENGELMANN: After receiving that
24 training yourself?

25 MR. THOMAS: Yes.

1 **MR. ENGELMANN:** And would you have done that
2 on your own or would you have done that with officials from
3 other agencies?

4 **MR. THOMAS:** I did that with officials from
5 the other agencies and with officials with the Metropolitan
6 Child Abuse Task Force.

7 **MR. ENGELMANN:** The training would have been
8 directed to whom, to principals or ---

9 **MR. THOMAS:** It was directed to principals
10 first and my -- I'll do my best to remember -- we brought
11 the principals and senior team and the Board of Trustees
12 right up to speed with in-service and training. After the
13 principals were trained, it was focused on the kindergarten
14 through grade 6 teachers and those teachers went through a
15 five-hour training process that was split into two and a
16 half hours on one particular day and another two and a half
17 hours on another day, very intense.

18 **MR. ENGELMANN:** So there was training for
19 both principals and teachers?

20 **MR. THOMAS:** Yes.

21 **MR. ENGELMANN:** What about for -- we've
22 heard from some of your predecessors here that on staff
23 with the Board there are psychologists, psychometrists,
24 social workers, et cetera, working with special ed. Would
25 there have been training for those individuals or would

1 they have participated in the training?

2 **MR. THOMAS:** This was a time in the province
3 that we did not have all that many services in different
4 levels that we have now, and we need more, but any of our
5 social workers or psychology staff, they were part of the
6 training. Well, in fact, several of those people were
7 brought in to be part of the team for the training.

8 **MR. ENGELMANN:** Okay. Now, to your
9 knowledge, was work like this done at Peel when you went
10 there and, if so, were you involved in that at all?

11 **MR. THOMAS:** No. They had protocols, very
12 good protocols and procedures in place for reporting and so
13 forth. In fact, it was state-of-the-art stuff. At that
14 particular time Peel Board enjoyed a very -- enjoyed a high
15 status as being recognized as a sort of leader in
16 curriculum, curriculum design and student and children
17 issues.

18 **MR. ENGELMANN:** All right.
19 And you went over to Peel in about '89?

20 **MR. THOMAS:** Yes.

21 **MR. ENGELMANN:** Sir, as I understand it from
22 your background, you've also been involved in some form of
23 child protection work ---

24 **MR. THOMAS:** Yes.

25 **MR. ENGELMANN:** --- with minor hockey. Is

1 that fair?

2 MR. THOMAS: Yes.

3 MR. ENGELMANN: Can you tell us a little bit
4 about that and when that was and what you did?

5 MR. THOMAS: The effect was that I was with
6 the Metropolitan Toronto Minor Hockey Organization and I
7 coached for the Mississauga Triple A Senators, and when I
8 became involved in that particular group, mainly through
9 coaching and always being interested in coaching, there was
10 the series of accusations and things that came out from
11 Western Canada regarding a famous NHLer who reported -- and
12 I can't remember the ---

13 MR. ENGELMANN: Sheldon Kennedy?

14 MR. THOMAS: Sheldon Kennedy.

15 MR. ENGELMANN: So this is mid-'90s now?

16 MR. THOMAS: Yes.

17 MR. ENGELMANN: M'hm.

18 MR. THOMAS: And I challenged our particular
19 group, could -- when this all came out I said "Would we be
20 safe? Do we have any sort of screening?" We immediately
21 then began to set up a committee and we started to take a
22 look at some of the issues of how we screen our coaches.
23 Do we know who our coaches are? Do they come with a
24 background? And we quickly -- well, one of the reasons
25 why, with my background with working with the Metropolitan

1 Child Abuse Prevention Group is that I was able to bring
2 some of that experience to it and we created a series of
3 protocols and interview procedures to ensure that our
4 coaches were people we wanted coaching our kids.

5 **MR. ENGELMANN:** And has this now spread
6 beyond the Toronto area with respect to minor hockey?

7 **MR. THOMAS:** Oh, yes. I believe, from my
8 understanding and my background in sports governing bodies,
9 I believe some of our sports governing have higher
10 standards than many other areas.

11 **MR. ENGELMANN:** Okay.

12 **MR. THOMAS:** In fact, I think maybe in some
13 places our coaches are the people who are seen the most and
14 being screened and asked for, you know, all of the things
15 that we ask for when we're hiring people.

16 **MR. ENGELMANN:** And it's not just coaches,
17 right?

18 **MR. THOMAS:** No, it's ---

19 **MR. ENGELMANN:** Some of us who are not
20 talented enough to be hockey coaches ---

21 **MR. THOMAS:** Managers ---

22 **MR. ENGELMANN:** --- managers or trainers
23 also have to go through this?

24 **MR. THOMAS:** Yes.

25 **MR. ENGELMANN:** And that's been for some

1 time now with minor hockey?

2 MR. THOMAS: Yes.

3 MR. ENGELMANN: Any other background or
4 experience dealing with child sexual abuse or child
5 protection?

6 MR. THOMAS: Just through my work as a
7 principal. I note that in my years I've had to make
8 reports and do those things and work with our different
9 partnerships in making reports and providing evidence, et
10 cetera, and I've done that as per the laws and policies and
11 procedures.

12 MR. ENGELMANN: We've heard from previous
13 witnesses about the importance, not just of protocols, but
14 maintaining relationships.

15 MR. THOMAS: Yes.

16 MR. ENGELMANN: Do you have any views on
17 that ---

18 MR. THOMAS: I totally agree.

19 MR. ENGELMANN: --- from your own
20 experience?

21 MR. THOMAS: I just totally agree. I think
22 that when you have -- when you know the people you're
23 working with and you are treating children as assets in
24 your community, and you see them as the future, the better
25 the relationship you have with your Police Services Board

1 and your Children's Aid Society, your counseling services,
2 so that you go beyond necessarily sort of having to look it
3 up in the phone book. The more that you know these people
4 and know who they are so that you know when you come across
5 an issue or you perhaps are curious and you know the face
6 and you know the different things or you've served on
7 committees with them, it makes it a much healthier
8 community.

9 **MR. ENGELMANN:** Okay. Sir, I'd like to then
10 turn to your outline of evidence, if I may, and like the
11 previous two witnesses you've set out a section on the
12 jurisdiction and organizational structure of the Board.

13 **MR. THOMAS:** Yes.

14 **MR. ENGELMANN:** And your experience, of
15 course, is just now with the Upper Canada District School
16 Board, not its predecessors?

17 **MR. THOMAS:** Right.

18 **THE COMMISSIONER:** Can I just stop you for a
19 second, Mr. Engelmann?

20 **MR. ENGELMANN:** Yes, absolutely.

21 **THE COMMISSIONER:** So I'm looking at you and
22 I'm thinking that here is a person that was well aware and
23 in tune with respect to protecting children. You started a
24 protocol or you updated a school board almost single-
25 handedly, I would suspect, taking a Toronto example.

1 So back in those days did you have an
2 insight as to how things were across the province or in
3 smaller school boards vis-à-vis these policies and
4 protocols? Can you help me there at all?

5 **MR. THOMAS:** Maybe a little more detail,
6 because I certainly was a -- I think when my career is over
7 and I get my shingle, probably it will be the most -- one
8 of the most important things I ever was involved in. But
9 if your question is would I have known what was happening
10 around the province ---

11 **THE COMMISSIONER:** Yes.

12 **MR. THOMAS:** --- I think if you, as a
13 principal, superintendent, director, if you become well-
14 versed with the Badgley Report and you are varied with the
15 Robins' Commission and then you have delivered a
16 comprehensive protocol to a community, you can't help but
17 know. And I think when you take a look at some of the
18 numbers in the Badgley Commission, 1 in 10, 1 in 9, and 1
19 in 2 in certain particular groupings, you have to say you
20 learn a little bit about your communities.

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

22 **MR. THOMAS:** I'm not sure if I'm answering
23 your question.

24 **THE COMMISSIONER:** Well, what I would like
25 to know is what the standards were across the province. So

1 would you have known, with your experience, what was going
2 on in Cornwall, for example?

3 **MR. THOMAS:** No.

4 **THE COMMISSIONER:** All right.

5 In dealing with other superintendents or
6 principals at the time -- were you a principal then?

7 **MR. THOMAS:** I was a principal -- I was a
8 vice-principal. I became a consultant in charge of this
9 particular project.

10 **THE COMMISSIONER:** I guess then my question
11 would be there would be different standards in different
12 communities?

13 **MR. THOMAS:** Yes.

14 **THE COMMISSIONER:** All right.

15 And from your experience, can you comment as
16 to whether or not the standards would be different between
17 bigger cities and smaller cities, that kind of thing?

18 **MR. THOMAS:** I would say from my background
19 in a combination urban/rural board, which the Peterborough
20 board was, is that issues might be different if you were in
21 Norwood or you were in Peterborough, and when I got to
22 Toronto to the Peel District School Board in the
23 Mississauga area, they realize a whole different set of
24 issues. But what I learned in the task force and in
25 leading the task force, that every community was affected.

1 So the knowledge that I gained was that every community in
2 Toronto, every community in North America had these issues.

3 **THE COMMISSIONER:** Right.

4 **MR. THOMAS:** Some were dealing with them in
5 an upfront, organized, professional manner and others were
6 saying "Well, let's learn from what they're going through
7 and move a little slower for our community", or regrettably
8 some communities would say "Well, if you open up Pandora's
9 Box you better be prepared to deal with it as you go
10 through."

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

12 **MR. THOMAS:** So I think there were a
13 variety.

14 And my understanding from this is that, you
15 know, it took a great deal of courage and leadership to
16 decide to take these types of issues on.

17 **THE COMMISSIONER:** All right.

18 So then let's put you on the spot a little
19 bit then. When you came here and assumed your position,
20 what were the state of affairs, in your view, with respect
21 to these policies in protecting children?

22 **MR. THOMAS:** When I came and joined the
23 Board here -- and part of this will come up a little later,
24 I guess ---

25 **THE COMMISSIONER:** I don't know.

1 **MR. THOMAS:** --- is the piece that we had
2 four boards that were slammed together, and you heard a bit
3 about it from Mr. Dilamarter.

4 **THE COMMISSIONER:** Yes.

5 **MR. THOMAS:** And this was not a marriage
6 made in heaven. They didn't like each other. And what
7 happened was for several years, and when I've come in, many
8 of the issues that they had were smaller issues. If you
9 look back and now you say "I wonder why that consumed so
10 much time." Once you bring in passionate people who did
11 not want to be with each other, all of the sudden, you
12 know, you're worried about where I sit at the table; how
13 big my office is; how come the guy across there got this
14 size and I got this size, and I think what we understand
15 from both private sector mergers and public sector mergers
16 is during those particular tumultuous times that perhaps
17 your eye is off the ball and perhaps some of the issues
18 that should be paramount aren't paramount. So I would say
19 that there are several -- I'm proud to say right now that
20 we're starting to put on the main agenda, and that's the
21 teaching for learning issues that are central to ensuring
22 children are learning.

23 **THE COMMISSIONER:** So you've given me an
24 explanation. Is the conclusion therefore that policies
25 protecting children were somewhat different then the board

1 you left?

2 **MR. THOMAS:** Yes.

3 **THE COMMISSIONER:** Now quantify that for me,
4 please.

5 **MR. THOMAS:** They're different in the sense
6 that you had four boards with four policies coming together
7 and the merging of the policies was a difficult issue
8 because you have a group saying "Well, I think ours is
9 better written. This one is better here." You have this
10 sort of turf battles over those. And what I saw was that
11 the easier ones to settle were settled first and the more
12 difficult issues that we are continuing to deal with that
13 are coming to the agenda now.

14 **THE COMMISSIONER:** And I understand you may
15 be in a tough position here, but what were the quality of
16 the protocols that the four boards had?

17 **MR. THOMAS:** I think the four boards were
18 following the procedures that were set out provincially
19 through regs and were going through.

20 I right now know that part of what we will
21 learn because of this particular Commission and because of
22 the knowledge that I bring to this new job that I have is
23 to look at our procedures and policies and to bring them
24 right up to speed so they're exemplary.

25 **THE COMMISSIONER:** So are you saying that

1 they may not be quite up to speed?

2 **MR. THOMAS:** I don't think they're quite up
3 to speed yet.

4 **THE COMMISSIONER:** Okay. And I don't mean
5 to pull teeth, but can you qualify that a little more?

6 **MR. THOMAS:** We follow right now the basic
7 procedures for protection of students in Ontario and that's
8 through our Safe School procedures and our protocols with
9 our partners in the CAS and the Police Services boards.

10 **THE COMMISSIONER:** Right. Okay.

11 Mr. Engelmann.

12 **MR. ENGELMANN:** I take it from the end of
13 that exchange that you'd like to do more than follow, Mr.
14 Thomas?

15 **MR. THOMAS:** Absolutely.

16 **THE COMMISSIONER:** There we go. All right.
17 Glad to have you aboard.

18 **MR. THOMAS:** I think in this particular
19 case, and we were talking about the council and myself, is
20 that I will -- this experience, and particularly in
21 Peterborough and with some of the procedures that we worked
22 in Peel, I bring a great deal of understanding, knowledge
23 and leadership for this in Eastern Ontario. And it will be
24 interesting because as we talked about the three other
25 legacy boards -- you may perhaps not see this with the same

1 sense of urgency -- and what this will help us do is create
2 an agenda that is powerful not only for Stormont-Dundas-
3 Glengarry but for Prescott-Russell, Lanark and Leeds and
4 Grenville as well that will make sense for the entire area.

5 **MR. ENGELMANN:** Now, just to speak about
6 that then for a minute, and when we talk about the size of
7 your board, you've provided us with a couple of maps this
8 morning that are available for the public and for counsel.
9 They give you a sense of the true size of geography of what
10 you're dealing with, Mr. Thomas. Is that fair?

11 **MR. THOMAS:** I've been told it's twice the
12 size of -- it's two times the size of Prince Edward Island.
13 And I know from 190,000 kilometres on my car I've been
14 around it a lot as you move through. We encircle Ottawa.
15 We go from Pakenham ---

16 **THE COMMISSIONER:** Excuse me. Are you
17 referring to the chart over there?

18 **MR. ENGELMANN:** We are.

19 **THE COMMISSIONER:** I can't see it. So if
20 you can just roll it over?

21 **MR. ENGELMANN:** I want to thank Mr. Manson
22 for his able assistance. He's no doubt looking for a star.

23 **MR. MANSON:** I was just walking over to have
24 a look.

25 **(LAUGHTER/RIRES)**

1 **THE COMMISSIONER:** It doesn't have to be to
2 my exclusive use, but here we go.

3 **MR. ENGELMANN:** That's perfect. I think
4 most counsel ---

5 **THE COMMISISONER:** Well, those who are on
6 the right are out of view so they will have to move to the
7 left or more to the centre philosophically maybe, I don't
8 know.

9 **MR. ENGELMANN:** So, Mr. Thomas, you were
10 indicating that the geographic area sort of circles or
11 encircles ---

12 **MR. THOMAS:** Yes.

13 **MR. ENGELMANN:** --- the broader City of
14 Ottawa now. You mentioned Pakenham at the northwest.

15 **MR. THOMAS:** Pakenham, right near Arnprior
16 is our most northerly part of the west part of our Board.
17 Then we go straight down into the Smith Falls and Perth
18 area, and then we follow Highway 15 down towards the
19 Kingston area and Gananoque. Our Board begins that
20 particular stretch of Upper Canada Boulevard, which is
21 commonly known as the 401. I call it the Upper Canada
22 Boulevard. I spend a lot of time on it and so ---

23 **MR. ENGELMANN:** So you go almost all the way
24 to Kingston?

25 **MR. THOMAS:** Yes, we do.

1 **MR. ENGELMANN:** All right.

2 **THE COMMISSIONER:** Is that why you like to
3 cooperate with the police?

4 **MR. THOMAS:** I find the Police Services
5 Board to be some of our best people to work with.

6 **THE COMMISSIONER:** Especially the traffic
7 controllers?

8 **MR. THOMAS:** Yes.

9 **THE COMMISSIONER:** Thank you. All right.

10 **MR. ENGELMANN:** So then you follow the St.
11 Lawrence River. And how far east do you go?

12 **MR. THOMAS:** To the Quebec border, and then
13 we move north and we travel along the river and get up to
14 Hawkesbury and back around to Russell and then back to the
15 Kemptville area. The sort of centre of our board is Ottawa
16 and we are just sort of planning to take it over at some
17 point.

18 **MR. ENGELMANN:** All right. That just has
19 not happened yet?

20 **MR. THOMAS:** No.

21 **MR. ENGELMANN:** So if I am correct then, you
22 have got the St. Lawrence River to the south ---

23 **MR. THOMAS:** Yes.

24 **MR. ENGELMANN:** --- Quebec to the east and -
25 - and, quite frankly, Quebec to the northeast ---

1 **MR. THOMAS:** Yes.

2 **MR. ENGELMANN:** --- as well, right up until
3 you get past Rockland towards Ottawa. All right.

4 And that geographic area we are looking at
5 used to be four ---

6 **MR. THOMAS:** Four boards, Prescott-Russell
7 and the northeast part of Stormont-Dundas-Glengarry, where
8 we are currently in right now, Cornwall through to
9 approximately Morrisburg, and then we have the Leeds-
10 Grenville Board that sort of follows the St. Lawrence and
11 goes up just towards Smiths Falls at that particular point
12 and then the former Lanark Board is the Smiths Falls-Perth,
13 all the way up through the Pakenham area.

14 **MR. ENGELMANN:** Now, we have heard about the
15 amalgamation of school boards and the reduction of school
16 boards to 72 ---

17 **MR. THOMAS:** Yes.

18 **MR. ENGELMANN:** --- in about 1997.

19 Is your Board an average size
20 geographically, or would it be middle of the road?

21 **MR. THOMAS:** Middle of the road. We are
22 approximately, I think, in the ten -- or about 5,500
23 employees middle-of-the-road size.

24 Now, geography size, we are a very large
25 board.

1 MR. ENGELMANN: Okay. That was my question.

2 Geography size, you are one of the larger boards?

3 MR. THOMAS: Yes.

4 MR. ENGELMANN: All right.

5 Now, with respect to your staff, you say
6 around 5,500?

7 MR. THOMAS: Yes.

8 MR. ENGELMANN: So that would include
9 teachers?

10 MR. THOMAS: That is all of our teaching
11 staff, our educational assistants, our office
12 administrators, custodians, et cetera.

13 MR. ENGELMANN: Does that also include some
14 of the transportation providers?

15 MR. THOMAS: We have -- no. We have a
16 transportation department, but we do not ---

17 MR. ENGELMANN: You don't count private
18 contractors ---

19 MR. THOMAS: No.

20 MR. ENGELMANN: --- as part of -- okay.

21 What about the number of students and number
22 of schools?

23 MR. THOMAS: Right now we have 103 schools
24 in Eastern Ontario that I supervise and I think the
25 declining enrolment is an issue for us, as we go through.

1 And I think in the brief we're about 32,000 students -- or
2 that is what we started ---

3 MR. ENGELMANN: All right.

4 MR. THOMAS: Or 21,000 students enrolled in
5 the -- we're at about 34,000 students.

6 MR. ENGELMANN: Yes, your outline suggests
7 21,000 in the elementary school system and another 13,000
8 in the secondary schools?

9 MR. THOMAS: Yes.

10 MR. ENGELMANN: And this is English language
11 public education?

12 MR. THOMAS: Yes.

13 MR. ENGELMANN: And would that include some
14 French second language, French immersion ---

15 MR. THOMAS: We have a whole series of
16 French as a second language schools, yes.

17 MR. ENGELMANN: And you say that you -- I
18 understand, sir, that there are four regional education
19 centres ---

20 MR. THOMAS: Yes.

21 MR. ENGELMANN: --- in the Board?

22 Where are they and what is a Regional
23 Education Centre?

24 MR. THOMAS: With a geography this large and
25 serving parents and for special situations, on the odd

1 occasion where you have a suspension/expulsion hearing type
2 of thing, we wouldn't be expecting a parent to make a two-
3 and-a-half, sometimes three-hour drive, five or fifteen
4 hours in the winter to our head office in Brockville. So
5 we have stationed regional satellite offices of about five
6 or six employees with a superintendent in that area and,
7 for example, the Prescott-Russell area is served here at
8 the Tugwi. The Cornwall -- the Tugwa Secondary School, the
9 Cornwall office is there.

10 We have the Capital Region which serves the
11 area around the Capital. In Kemptville we have a satellite
12 office there with a smaller staff. In Prescott we --
13 Prescott, not Prescott-Russell, but Prescott, Ontario -- we
14 have a small office there that serves our St. Lawrence
15 family of schools and then in Smiths Falls, we have an
16 office there that serves the Rideau -- our Rideau family of
17 schools on the west side.

18 **MR. ENGELMANN:** So you would have
19 superintendents in each ---

20 **MR. THOMAS:** Yes.

21 **MR. ENGELMANN:** --- and they would be
22 responsible for a family of schools?

23 **MR. THOMAS:** Exactly.

24 **MR. ENGELMANN:** And they would have some
25 support staff at those locations ---

1 MR. THOMAS: Yes.

2 MR. ENGELMANN: Some admin support.

3 And on the map, those regional education
4 centres are depicted with a star?

5 MR. THOMAS: Yes.

6 MR. ENGELMANN: And of course the head
7 office of your Board is in Brockville?

8 MR. THOMAS: Yes.

9 MR. ENGELMANN: All right.

10 Can you give us some sense as to the number
11 of trustees that you might have?

12 MR. THOMAS: We have 12 trustees and of
13 those 12 we also have a First Nations representative, Peter
14 Garrow. We have a five-year agreement with our First
15 Nations group to work in education with them, just across
16 the river here ---

17 MR. ENGELMANN: Are those ---

18 MR. THOMAS: We're very, very proud of that
19 group.

20 MR. ENGELMANN: Are they First Nations
21 within that geographic area ---

22 MR. THOMAS: Yes.

23 MR. ENGELMANN: --- or are they -- all
24 right.

25 And the Board trustees, are they elected

1 geographically or across the board?

2 **MR. THOMAS:** Yes, they are. They represent
3 certain areas of our jurisdiction.

4 **MR. ENGELMANN:** All right.

5 And the previous witnesses have told us that
6 in some of the -- well, in all of the schools, there are
7 principals and in some of the schools you have vice-
8 principals. Is that still the case?

9 **MR. THOMAS:** Yes, it is.

10 **MR. ENGELMANN:** And whether or not there is
11 a vice-principal might be dependent upon school population,
12 among other things?

13 **MR. THOMAS:** We only have the odd spot, just
14 one or two -- I think we have three places where a vice-
15 principal is serving, but that would be a twin school where
16 a principal would oversee both sites. We would have a
17 vice-principal in training to be a principal who would be
18 working with them in those particular situations.

19 **MR. ENGELMANN:** All right.

20 And we have heard a little bit about the
21 breakdown of responsibilities of principals and vice-
22 principals. Is that essentially the same as it was?

23 **MR. THOMAS:** Very similar.

24 **MR. ENGELMANN:** All right.

25 And you have other staff in the schools

1 other than teaching staff?

2 MR. THOMAS: Yes.

3 MR. ENGELMANN: We have heard about admin
4 support staff. We've heard about custodial staff. Do you
5 still have service providers that are providing services on
6 contract?

7 MR. THOMAS: Yes.

8 MR. ENGELMANN: And would they include your
9 transportation providers?

10 MR. THOMAS: Yes.

11 MR. ENGELMANN: And what about volunteers?
12 Are there a great number of volunteers?

13 MR. THOMAS: There are thousands of
14 volunteers. We are very proud of our communities and the
15 number of people who are volunteers. We recognized last
16 year 4,000 different volunteers with pins of thanking them
17 and some 25 and 30 years of service in our schools.

18 MR. ENGELMANN: So they are an important
19 aspect of delivering educational services?

20 MR. THOMAS: Absolutely.

21 MR. ENGELMANN: And, sir, we have heard
22 about the *Fewer Schools Act* and this amalgamation from Mr.
23 Dilamarter. I think you have talked to us already about
24 the fact that there is a great deal of change after that.

25 Was this one of a kind in Ontario, or has

1 there been other times with significant change from your
2 experience?

3 **MR. THOMAS:** Well, from my understanding, in
4 '69 when, I believe, Mr. Davis changed everything around to
5 county boards of education -- and I am very interested in
6 this and have educated myself on this one --- and
7 especially in our community of Eastern Ontario -- I believe
8 that there was similar angst then as there was when the
9 Harris government reduced the number of school boards.
10 People said, "It's just good the way it is? Why are you
11 doing this? We're very, very proud of our community."

12 I have gone back at different functions to
13 speak to people who were around in '69. We have a couple
14 of trustees who were around in that particular time and
15 they remind us of how upsetting that particular experience
16 was when you had four or five little one-room schoolhouses,
17 or two-room schoolhouses and they are all going to come
18 together into this scary, you know, 10-room school and
19 have, you know, 150 kids at it and so forth. And they said
20 it, "Well, it's never going to be be the same and how do
21 you keep track of all of them?"

22 And when I listened to those parents and the
23 grandparents now speak about the situation, they move that
24 all forward to when we went through the reduction of school
25 boards, very similar language. And if you go back through

1 some of the minutes of meetings, et cetera, you see very
2 similar issues. And I think there is probably something to
3 be learned about public sector mergers that should be kept
4 in documents. I have not seen a great deal of information
5 sort of published. I have seen private sector but not the
6 public sector merger issues.

7 **MR. ENGELMANN:** Okay. And I think in your
8 dialogue with the Commissioner you indicated you are still
9 working out some of the kinks from that combination.

10 **MR. THOMAS:** I believe it will take over 10
11 years before a lot of the issues are finally dealt with and
12 put to bed.

13 **MR. ENGELMANN:** And some of these issues
14 involve having common policies and programs?

15 **MR. THOMAS:** Yes, common collective
16 agreements, everything. You have issues -- when the Board
17 came together you would have custodians paid in one
18 jurisdiction different from custodians in others and
19 secretaries, everything. So it takes time to harmonize all
20 of those particular areas and policies are a part of that.

21 **MR. ENGELMANN:** Okay. Sir, at the third
22 page of your outline you have some discussion of a report
23 known as the Robins Report.

24 **MR. THOMAS:** Yes.

25 **MR. ENGELMANN:** And one of our context

1 experts, Peter Jaffe, was involved in that work with
2 Justice Robins and told us a little bit about the focus of
3 that report, the review and reporting of a teacher in Sault
4 Ste. Marie and sexual abuse that he engaged in for some 20
5 years and gives a good background about some of those
6 issues.

7 In your view, as a school board
8 administrator and with your background in this area of
9 training in child sexual abuse, what is the significance of
10 the Robins Report for those of you working in the school
11 system?

12 **MR. THOMAS:** I think the Robins Report laid
13 it right out there for us that this is an issue that we
14 have to come to grips with and then if we continue -- and I
15 have used the word before -- to see our children as assets
16 to be developed -- we have to take a very different look at
17 how we deal with it. And I think that -- I think it also
18 brought together a great deal of research that said, you
19 know, if you are saying this is not an issue in your
20 community, you are mistaken.

21 **MR. ENGELMANN:** Well, I note in your outline
22 you refer to the fact that the report broadly defines
23 sexual abuse to include many additional forms of sexual
24 misconduct, such as grooming behaviours.

25 Did you think -- I mean, is that significant

1 to people in the school system to understand the scope of
2 sexual misconduct?

3 **MR. THOMAS:** I think part of the Robins
4 Report helped us to really understand the issues of what
5 sexual abuse is and what it looks like and that the whole
6 aspect of grooming and that type of language is starting to
7 put an understanding of what is the nature -- the full
8 nature -- of what sexual abuse looks like.

9 It also created an opportunity for us to
10 understand what a good learning culture looks like as well
11 without these things.

12 **MR. ENGELMANN:** And, sir, the executive
13 summary of that report is what we find at Tab 4 of your
14 Book of Documents; is that correct?

15 **MR. THOMAS:** Yes.

16 **MR. ENGELMANN:** And there is a chapter --
17 unfortunately these are not numbered -- there is a chapter
18 dealing with policies and protocols towards the end.

19 **MR. THOMAS:** I'm sorry, I don't have a page
20 number.

21 **MR. ENGELMANN:** It is about three or four
22 pages from the back.

23 **MR. THOMAS:** "How To Develop Policies and
24 Protocols"?

25 **MR. ENGELMANN:** Yes. It's Chapter 6,

1 "Policies and Protocols".

2 MR. THOMAS: Yes.

3 MR. ENGELMANN: In the Introduction it says:

4 "Policies and protocols represent
5 important tools for the prevention and
6 early identification of sexual
7 misconduct and for protecting those
8 already victimized by such misconduct."

9 It says, for example:

10 "School Board policy and how complaints
11 of sexual abuse should be acted upon
12 that is clear, fair and known to all is
13 likely to help protect children, ensure
14 fairness to the affected teacher,
15 provide assurance to the community and
16 enhance the school environment."

17 Would you agree with that statement?

18 MR. THOMAS: Absolutely

19 MR. ENGELMANN: All right.

20 And, in fact, in your outline you refer to
21 the fact that the report identified that as many as 70 per
22 cent of children might not report abuse?

23 MR. THOMAS: Yes.

24 MR. ENGELMANN: Okay. And would you agree
25 then that policies that would help those children who have

1 not reported abuse feel more comfortable in reporting it
2 would be of great assistance?

3 **MR. THOMAS:** It would be of great
4 assistance.

5 What I have learned over the years, and in
6 particular my training in child sexual abuse
7 identification, a child is not going to disclose to anyone
8 unless they trust them. So you can have all the training
9 in the world, but if little Joey or Bobby, or Raji doesn't
10 trust the individual, there won't be disclosure. I think
11 these are important things that we understand from the
12 Robins Report is that, you know, disclosures are not going
13 to come at 9:00 o'clock in the morning, but it is going to
14 come when a child trusts someone and discloses to them the
15 nature of the situation that they find themselves in.

16 **MR. ENGELMANN:** Would you agree then some
17 form of training for school board staff would be important
18 in building that trust?

19 **MR. THOMAS:** Absolutely. But may I say we
20 don't have those resources in place to even do that right
21 now.

22 **MR. ENGELMANN:** Okay. Now, I just note in
23 that same chapter there is a reference to "Prevention
24 Strategies."

25 **THE COMMISSIONER:** I'm sorry, Mr. Engelmann,

1 I just can't -- are you telling me that it is going to take
2 10 years to get your system -- or your -- the Board, I
3 guess, up to where you want it, or 10 years to get the
4 policies with respect to protection of children?

5 **MR. THOMAS:** No. I think that we can do
6 that much quicker.

7 **THE COMMISSIONER:** I hope so.

8 **MR. THOMAS:** And however, what I learned in
9 my Peterborough experience was that if you are going to
10 walk down this road and you have the courage to do it and
11 you have -- you believe you've built the capacity to do it,
12 I believe you better think twice because when the
13 disclosures come, you have to have the network, a very
14 serious social services network to support the people who
15 have come forward. And what I learned and I shared this
16 with counsel before, when I was doing the child abuse
17 prevention workshops and leading these in sessions of about
18 a hundred or so teachers, I realized how true the Badgley
19 Report was because I looked in the room and I'd see a
20 teacher who had worked for me, tears coming down her face
21 saying, "David, I can't be a part of this".

22 And then you walk out in the parking lot
23 saying, "Well, you know, take your time" and then she tells
24 you of an experience. You realize that the very people who
25 potentially will be providers and identifier of sexual

1 abuse, they themselves are victims and when you decide to
2 do this type of thing, you better be prepared to have your
3 EAP programs, all of those things ready to go, no one ---

4 **THE COMMISSIONER:** Employment Assistance
5 Program?

6 **MR. THOMAS:** Assistance Program ready to go
7 because I was -- I was not overwhelmed, but I was surprised
8 at the number of people in the sessions who looked at me as
9 if, you know, this isn't going to happen with me and then
10 you just -- the look you said, you know, they will need
11 support and social services. So those are the things that
12 you better be ready to have in place because you cannot ask
13 someone to support a child until they themselves are ready
14 to support the child who potentially discloses to them.

15 **MR. ENGELMANN:** Okay. We've heard about the
16 need to have support and/or counselling available to
17 professionals dealing with child sexual abuse because of
18 how difficult it can be for them and how traumatizing but
19 you're saying on top of that, services for those that have
20 been through it themselves.

21 **MR. THOMAS:** Yes.

22 **MR. ENGELMANN:** And then are being asked to
23 do the work. Okay.

24 Sir, in this section on Chapter VI and where
25 there's "Prevention Strategies", "Overview", there are ---

1 **MR. THOMAS:** I may not be following you.

2 What page are you on?

3 **MR. ENGELMANN:** I'm sorry. I'm still in the
4 Robins Report.

5 **MR. THOMAS:** Okay.

6 **MR. ENGELMANN:** I apologize. We've been
7 jumping around a bit. Tab 4.

8 **MR. THOMAS:** Yes.

9 **MR. ENGELMANN:** Towards the back, and it's
10 up on the screen. There's an overview at the top of the
11 page and then there are suggestions with respect to
12 education and training, screening of teaching applicants
13 and reference checks.

14 **MR. THOMAS:** Yes.

15 **MR. ENGELMANN:** It goes on and what it
16 appears to be suggesting is some form of consistency, some
17 form of objectivity, some form of training and education to
18 bring up the standard. And with it -- and I've just missed
19 the page now, but there was a reference to the fact that --
20 yes, under "Problem Areas", and it's just before
21 "Prevention Strategies". So if you just, Madam Clerk, go
22 back just a little bit,

23 "Through survey responses and
24 consultations with school boards and
25 other stakeholders, the review

1 identified problem areas that school
2 boards need to address in developing
3 policies and protocols regarding sexual
4 misconduct. Though the stakeholders
5 sometimes had very different views on
6 how these areas should be addressed
7 ..."

8 It just goes on about various things that
9 should be done and as well talks about the fact that there
10 is some difference in the level of work that's being done
11 by various boards across the province.

12 Do you agree on the importance of this in
13 trying to have consistent standards?

14 **MR. THOMAS:** Yes, I agree this is a huge
15 issue. In the course of effective schools, which is many
16 of the school boards, the leading school boards across
17 Ontario and North America, talk about the 10 correlates of
18 an effective school. The first correlate is a safe
19 environment for learning and for a young boy or girl to
20 come and get the best they can for themselves and that we
21 can ensure that they're learning. Then we have to ensure
22 it's safe both physically, emotionally, socially, all of
23 those things and potentially even spirituality.

24 So if you have a child who has a lot of
25 baggage that they're bringing and so forth, you may not get

1 to some of the issues that you have to get to with literacy
2 and numeracy if they're carrying a lot of baggage. Mr.
3 Dilamarter talked about the fact that the proactive schools
4 have recognized at 10 o'clock in the morning that little
5 Joey has a behaviour problem because he hasn't eaten. They
6 started breakfast programs.

7 I think that if we're going to get to some
8 significant gains in education is because we're going to
9 service the whole self, and that's why we will need
10 comprehensive programs in the nature that Robins have asked
11 for.

12 **MR. ENGELMANN:** And I'm curious. Under the
13 "How to Develop Policies and Protocols on Sexual
14 Misconduct", which is just a little later -- Madam Clerk, a
15 little more, the second last page -- just a second. It's
16 just under "Financial and Other Resources". Just a little
17 further. Yes.

18 I'm just looking at the first paragraph
19 under "How to Develop Policies and Protocols on Sexual
20 Misconduct" and at the end of that paragraph, it says:

21 "Further, such policies and protocols
22 should be the subject of periodic
23 review by the Ministry of Education, in
24 cooperation with Ontario school
25 boards."

1 Do you know if the Ministry of Education is
2 doing that, sir?

3 **MR. THOMAS:** Yes. The Ministry through our
4 *Safe Schools Act* and through other pieces of legislation
5 are reviewing these types of things and coming back to
6 them.

7 **MR. ENGELMANN:** Okay. So they are reviewing
8 the Child Sexual Abuse Protocols?

9 **MR. THOMAS:** I don't know about the Child
10 Sexual Abuse Protocol specifically, but I do know that we
11 are often called to ask for staff to sit on committees and
12 different things to take a look at the issues going
13 forward.

14 **MR. ENGELMANN:** Okay. And I just note right
15 after that the report saying "Some school boards are to be
16 commended for their commitment", and it just gives some
17 examples of what some school boards are doing.

18 I don't know if there's anything else you
19 wanted to add about Robins but is that ---

20 **MR. THOMAS:** It's just time that we all got
21 on the same page and it wasn't such a jagged front that we
22 all had similar protocols. One thing that I think we'll
23 get from this Commission is that we're going to be able to
24 start to talk about this more openly and start to talk
25 about who has the best procedures and share best practice

1 as I agree with the logistic that, you know, we can't take
2 10 years to do this. This is something that we can do
3 quicker. Technology will help us and we can share best
4 practice from across the province very quickly if this
5 becomes an agenda item. It's very important and I
6 personally believe in it.

7 **MR. ENGELMANN:** Okay. Just the last item on
8 that page on the outline, back at Tab 1, page 3,

9 "...the Report highlighted the need to
10 check references for all teachers. The
11 Report also recommended that school
12 boards conduct criminal background
13 checks."

14 I think we'll come to that later in your
15 outline, but that is now being done.

16 **MR. THOMAS:** Yes.

17 **MR. ENGELMANN:** And that's being done not
18 just for employees but also for volunteers.

19 **MR. THOMAS:** Yes.

20 **MR. ENGELMANN:** All right. Now, the next
21 part of your outline, sir, deals with the "Joint Protocol"
22 and according ---

23 **THE COMMISSIONER:** I'm sorry, Mr. Engelmann,
24 can I just stop you again?

25 **MR. ENGELMANN:** I'm sorry.

1 **THE COMMISSIONER:** No, no. With respect to
2 the volunteers, have criminal checks been done
3 retroactively in the sense that you say that you had people
4 that -- you have thousands of volunteers and some of whom
5 have been with you for a long time. Has the Board now done
6 criminal checks on all of the volunteers?

7 **MR. THOMAS:** Every single person who comes
8 into our school, whether in -- up in Carleton Place, I was
9 walking through one of my schools, and there's a gentle
10 elderly woman in her 80s who does reading with kids and has
11 been doing it for 30 years. I asked her. I said, "Did you
12 have to go through a criminal record check?" And she said,
13 "Proudly"; she said, "If it is to keep the school safe",
14 and there was -- because we were worried at one point, you
15 know, how do you tell some people who have been giving you
16 30 years of volunteer work that we're going to go through
17 your records. Of course, those people who have been
18 serving kids recognize we are just making our school safer
19 and it was sort of a neat conversation to be there with.

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

21 **MR. ENGELMANN:** Mr. Thomas, then, on page 4
22 of your outline, you refer to a couple of protocols, and
23 one of the protocols is what we see at Tab 6 of your Book
24 of Documents, correct?

25 **MR. THOMAS:** Yes.

1 **MR. ENGELMANN:** And this protocol would have
2 been signed off just -- well, a couple of years before you
3 came to the Board?

4 **MR. THOMAS:** Yes.

5 **MR. ENGELMANN:** All right. I don't know how
6 much knowledge you have of its development. There are a
7 number of individuals named as members of committees on the
8 second page, which is now up on the screen.

9 **MR. THOMAS:** Yes.

10 **MR. ENGELMANN:** A couple of whom I believe
11 are with the Upper Canada District School Board; Ted
12 Whiteland and Phil O'Brien.

13 **MR. THOMAS:** Yes.

14 **MR. ENGELMANN:** Are they still with the
15 Board?

16 **MR. THOMAS:** Both are retired.

17 **MR. ENGELMANN:** Okay. And do you know what
18 capacity or what positions they would have held?

19 **MR. THOMAS:** They would have been on the
20 committee that would be looked at -- that was implementing
21 and developing this. Ted Kennedy, the Superintendent for
22 the Gateway Cornwall area now sits on that committee for
23 us.

24 **MR. ENGELMANN:** Okay. So you have ongoing
25 members on this committee?

1 **MR. THOMAS:** Yes.

2 **MR. ENGELMANN:** Is this protocol -- to your
3 knowledge, is this still the protocol that's in effect
4 today?

5 **MR. THOMAS:** Yes, it is.

6 **MR. ENGELMANN:** All right. And how does
7 this protocol work together with the protocol we would have
8 looked at with Mr. Dilamarter? Mr. Dilamarter in his Book
9 of Documents, and I don't know if you heard the evidence
10 this morning, but there was a protocol for the Board itself
11 from 1989 called the Child Abuse Protocol. And then there
12 was the first sort of multi-agency protocol from 1992, and
13 I believe this is the next protocol involving the Board and
14 it's again one of these multi-party agency ones.

15 So how do they work together or do they?

16 **MR. THOMAS:** This particular protocol is for
17 all of Eastern Ontario, not just for Stormont, Dundas and
18 Glengarry. As you take a look through this, this covers
19 each and every geographical jurisdiction that we serve. In
20 fact, this particular one, since that particular time, a
21 couple of the -- well, one in particular, Prescott-Russell
22 doesn't have police service support. They're served by the
23 OPP now.

24 But all of those specific groups come
25 together and, as I believe Mr. Dilamarter has said, it

1 really creates relationships and partnerships that we
2 understand in our school, this is what the CAS will do; in
3 our school, this is what the OPP will do; and also for our
4 partners that they'll understand that this is what we will
5 do.

6 For example, if we suspect child sexual
7 abuse, we're not going to start doing the investigation.
8 That's for professionals, the CAS or the police to be
9 dealing with those particular criminal issues. So what we
10 understand through this partnership and this protocol who
11 is responsible for what part of serving the community and
12 this particular challenge that we're in.

13 **MR. ENGELMANN:** Okay. You may have heard
14 some of the questions in particular that came up in the
15 cross-examination about the potential conflict and also
16 some questions from the Commissioner about potential
17 conflict if you have the teacher having to report to the
18 principal and/or his designate before going directly to
19 Children's Aid. Now, I'm just talking about the duty to
20 report aspect.

21 **MR. THOMAS:** M'hm.

22 **MR. ENGELMANN:** And that exists in your --
23 that existed in your 1989 policy. Is that still in place
24 to your knowledge or ---

25 **MR. THOMAS:** That particular policy is not

1 in place, but we go by the reg that now has come out that
2 says the teacher has to. They can't just go now to the --
3 sort of fill in the principal on what's going on and the
4 principal makes a decision. The teacher now is in a very
5 similar situation as the principal. It's not only do you
6 have to tell your principal if you -- you don't even have
7 to tell your principal. You go straight and do it
8 yourself.

9 What I have recommended to our principals in
10 our training that we go through, if an allegation of that
11 particular nature comes up, whether sexual abuse or
12 physical abuse, is that you should do it as a group
13 together. And going back to an earlier question or
14 dialogue, if you have the proper working relationship with
15 your CAS and with the police, you'll be picking the phone
16 up to phone someone who you might be familiar with and
17 saying, "You know, this has happened, et cetera, et cetera.
18 This has happened at the school. We would like your
19 advice. Let me know if you believe this is disclosure."
20 And then you work with them in a positive way for an
21 outcome for that family that makes sense for them.

22 **MR. ENGELMANN:** Okay. And the portions of
23 this particular protocol that deal with in-school issues,
24 and I'm just flipping through, but I believe those are
25 found at pages 40 to 44 -- but if there are other -- if you

1 could just confirm that for me.

2 MR. THOMAS: Yes.

3 MR. ENGELMANN: Is that correct?

4 MR. THOMAS: Yes.

5 MR. ENGELMANN: All right.

6 And you refer in the outline at page 4,
7 Recommendation number 50 of the Robins' Report. Do you
8 recall what that is or is that just a recommendation that
9 school boards have protocols with the CAS and the police?

10 MR. THOMAS: Yes.

11 MR. ENGELMANN: I'll just be a moment, sir.

12 THE COMMISSIONER: M'hm.

13 MR. ENGELMANN: And I think the point -- and
14 I'm just looking at the fourth paragraph in your outline.
15 You say:

16 "It is not an expectation that school
17 board staff would conduct an
18 investigation. Whether it's a
19 suspicion that a child is in need of
20 protection, the role of investigation
21 is that of the police and/or CAS."

22 MR. THOMAS: Yes.

23 MR. ENGELMANN: And page 41 -- you're
24 referring to page 41 of Tab 6? Am I correct?

25 MR. THOMAS: Yes.

1 **MR. ENGELMANN:** So there are sort of
2 guidelines or a process set out for this joint
3 investigation team of the CAS and the police?

4 **MR. THOMAS:** Yes.

5 **MR. ENGELMANN:** And again, like in a
6 previous protocol we've looked at, the signatories have
7 declared certain commitments. Is that what we see at page
8 4 of the tab?

9 **MR. THOMAS:** I may not be on the same page
10 that you're on.

11 **MR. ENGELMANN:** It's small number 4. It's a
12 couple of pages in. It says "Introductory Section -
13 Declaration of Commitment".

14 **MR. THOMAS:** And we're in Tab 4?

15 **MR. ENGELMANN:** No, sorry, Tab 6.

16 **MR. THOMAS:** Page 4, Tab 6, yes.

17 **MR. ENGELMANN:** It gives us a sense of all
18 of the agencies, the various police forces, hospitals, your
19 school board, other school boards that were involved?

20 **MR. THOMAS:** Yes.

21 **MR. ENGELMANN:** All right.

22 And the reference to the duty to report,
23 sir, and guidelines is described at page 18. And I think
24 you've told us a little bit about this obligation for the
25 teacher to report directly. I'm just picking up on the

1 point I think you made, sir, at the top of page 19 with
2 respect to who should be doing this investigation.

3 **MR. THOMAS:** Yes.

4 **MR. ENGELMANN:** Sir, I believe there's a
5 portion dealing with allegations of school board employees.
6 We had talked earlier about pages 40 to 44.

7 On page 47, there appears to be some
8 guidance with respect to allegations about school board
9 employees -- are involved in school board employees, and
10 I'm looking at the middle paragraph.

11 **MR. THOMAS:** Yes.

12 **MR. ENGELMANN:** And Mr. Dilamarter told us
13 that in those cases, at least in the past, there's been a
14 policy whereby anyone accused who has contact with children
15 is removed from that setting and suspended with pay. Can
16 you tell us if that is still a policy of the Board?

17 **MR. THOMAS:** It's an identical policy. It
18 continues to be the same policy.

19 **MR. ENGELMANN:** And he also told us, and it
20 was in the school procedure from the 1989 protocol, that
21 the principals wouldn't get involved. It was the teacher.
22 It would go up the line to the superintendent or perhaps to
23 the director. Is that your current policy as well?

24 **MR. THOMAS:** The change that would be there
25 would come through the superintendent, but our Human

1 Resources Department would play a lead role in this
2 particular part of our business.

3 **MR. ENGELMANN:** You say as well, and I'm
4 looking at page 4 of your outline:

5 "Robins Report did recommend that
6 training for teachers and other staff
7 be provided not for the purpose of
8 investigation but in order that
9 teachers and other staff would have
10 tools to identify children who might be
11 in need of protection who had not made
12 a disclosure."

13 And the Robins Report also recommended that
14 the Ministry of Education provide funding for training.
15 You say:

16 "Unfortunately, school boards have not
17 received funding for such training. To
18 my knowledge, government funding has
19 not been available to the various CAS
20 to enable them to provide such training
21 for school board staff."

22 So just so I understand this, you say
23 training money hasn't been available for your Board or, to
24 your knowledge, all boards?

25 **MR. THOMAS:** We have training money that

1 comes from the Ministry in large amounts for literacy,
2 numeracy, and often they are sweaters saying, "This is
3 directly what they are to be used for". I've used the term
4 "Kevlar jacket" sometimes to sort of -- they send us a load
5 of money and say it's to be used this way in grade 3 and
6 "Send us back the report on how many teachers have the
7 training." To my knowledge as director, we've never
8 received any sort of direction that this is to be used --
9 this staff training is to be used in a comprehensive child
10 sexual abuse program.

11 **MR. ENGELMANN:** And you reference the CAS
12 and them not being able to provide the training. Was that
13 something that was recommended or something that happened
14 in the past where CAS would provide training to school
15 board staff?

16 **MR. THOMAS:** Well, we have a very good
17 working relationship with the groups of CAS that we have --
18 that we worked together within Eastern Ontario, but we have
19 nothing in the nature of being able to organize staff-wise
20 something of the magnitude of what might be requested by
21 the Robins Report.

22 **MR. ENGELMANN:** Now, in your last paragraph
23 you reference the fact that there may be circumstances
24 where you would investigate in any event if either the
25 police or the CAS declined to. To your knowledge, has that

1 happened?

2 **MR. THOMAS:** Yes, we have. We have further
3 gone to investigate certain situations with staff.

4 **MR. ENGELMANN:** Would that also arise, sir,
5 if you had an employee who was criminally charged and if
6 the criminal charge didn't end in a conviction, would there
7 be some investigation to determine whether or not that
8 individual would be returned to contact with children?

9 **MR. THOMAS:** Well, we have a duty to Ontario
10 College of Teachers of which I am a member and so would the
11 teachers be, although our custodians and other staff are
12 not. We have a duty to report to them in a similar way we
13 report to the police, and we would be finishing off our
14 investigation and sometimes we would reserve the right to
15 say that they may not have met a criminal standard, but we
16 believe there's been a standard that the Board would not
17 tolerate and we would terminate a person.

18 **MR. ENGELMANN:** So in those circumstances
19 there might be some form of investigation?

20 **MR. THOMAS:** Yes.

21 **THE COMMISSIONER:** So I take it that would
22 be where there's a rule that doesn't breach any law
23 technically. For example, I guess a teacher at a high
24 school befriending and dating a student, that, I take it,
25 is not acceptable?

1 MR. THOMAS: That would be unacceptable.

2 THE COMMISSIONER: It's not illegal.

3 MR. THOMAS: I don't believe so.

4 THE COMMISSIONER: Well, depending on the
5 ages and things.

6 MR. THOMAS: M'hm.

7 THE COMMISSIONER: Thank you.

8 MR. ENGELMANN: It would also arise in
9 circumstances where you might have had a situation where a
10 charge was dismissed perhaps on a technicality, perhaps
11 not. After trial, you might investigate that situation
12 further for possible discipline?

13 MR. THOMAS: Yes.

14 MR. ENGELMANN: All right.

15 Now, you reference at page 5 the *Safe*
16 *Schools Act*.

17 MR. THOMAS: Yes.

18 MR. ENGELMANN: And it came into effect or
19 force in the year 2000, and you have it set out at Tab 7 --
20 -

21 MR. THOMAS: Yes.

22 MR. ENGELMANN: --- of your Book of
23 Documents; is that correct?

24 MR. THOMAS: Yes.

25 MR. ENGELMANN: Can you just tell us very

1 briefly the purpose of that legislation from the school's
2 perspective?

3 **MR. THOMAS:** That legislation was really
4 about the conduct of students in their schools and gave
5 directions to the school board officials, to principals
6 and, to some extent, even teachers of their rights to deal
7 with inappropriate behaviour in the school setting or
8 determine if it was the nature of -- as a part of the
9 school.

10 **MR. ENGELMANN:** All right.

11 And how then does that interrelate with the
12 Code of Conduct for Ontario Schools, which you also
13 referenced in paragraph 3 of that page?

14 **MR. THOMAS:** The *Safe Schools* was basically
15 looking at students and what students are supposed to do,
16 and it was organized in such a way that across the Province
17 of Ontario, that we would have similar responses to issues
18 that go on in schools. If school A in Peel suspended a
19 student for 20 days because they were smoking on school
20 property, and at Dundas County the person -- that -- was
21 spoken to in the office by the vice-principal, they were
22 looking that there be similar types of responses across
23 Ontario to similar types of issues, and this was an attempt
24 to pull that together.

25 **MR. ENGELMANN:** All right.

1 And the Code of Conduct at Tab 8, as I
2 understand it -- I'm looking at about page 5 onward -- it
3 seems to set out behavioural standards for all individuals
4 present in a school.

5 **MR. THOMAS:** Yes.

6 **MR. ENGELMANN:** For example, principals,
7 teachers and school staff, students, et cetera.

8 **MR. THOMAS:** Yes.

9 **MR. ENGELMANN:** And, sir, that was
10 proclaimed approximately when; do you know?

11 **MR. THOMAS:** Probably -- Mr. Dilamarter had
12 a much better memory than myself on these things, and he
13 claimed to be old.

14 **MR. ENGELMANN:** I think this is when he was
15 retired already as well.

16 **MR. THOMAS:** M'hm.

17 **MR. ENGELMANN:** About the year 2000 or 2001?

18 **MR. THOMAS:** Yes, I would think so.

19 **MR. ENGELMANN:** All right.

20 And, in fact, I think the Code also sets out
21 responsibilities for school boards.

22 **MR. THOMAS:** Yes.

23 **MR. ENGELMANN:** Is that what we see at page
24 4?

25 **MR. THOMAS:** Yes.

1 **MR. ENGELMANN:** And you're familiar with the
2 guidance that's being directed at your Board here from the
3 Ministry of Education?

4 **MR. THOMAS:** Yes.

5 **MR. ENGELMANN:** Now, you also have or could
6 have examples of students sexually abusing or sexually
7 molesting other students?

8 **MR. THOMAS:** Yes.

9 **MR. ENGELMANN:** And we've heard from your
10 predecessors that that type of conduct would be
11 disciplinable and could lead to either suspensions or
12 expulsions. Is that still the same today?

13 **MR. THOMAS:** It's still the same today, but
14 we would work very closely with our police services group,
15 the officers, the men and women in the field who work in
16 our schools to be a part of that, especially if there's
17 criminal activity involved. As a school board, we would
18 allow the Police Services Board of the OPP to do their
19 investigation. We would hold the student -- in this case,
20 different students to different things, whether it be a
21 suspension or whatever, until they had completed their
22 investigation and then we would determine our responses
23 from that.

24 **MR. ENGELMANN:** And then you have listed
25 some -- and I'm just looking as a follow-up to the *Safe*

1 *Schools Act*, regulations at Tab 9, policies on access to
2 school at Tab 10, and then further policies on safe schools
3 at Tab 11.

4 **MR. THOMAS:** Yes.

5 **MR. ENGELMANN:** And can you then tell us
6 about just very briefly -- on the issue of suspensions and
7 expulsions, we've heard from the previous witnesses about
8 responsibilities there. Are they essentially the same
9 today?

10 **MR. THOMAS:** The piece that the Safe Schools
11 piece has done has really sort of created more of a
12 stricter interpretation of different acts and what it's
13 done is that it's tried to do something that parents had
14 asked for across Ontario that we have sort of common
15 standards, that an expulsion in Oshawa be for similar
16 reasons as it would be in Cornwall.

17 **MR. ENGELMANN:** So again some consistency
18 with respect to those standards?

19 **MR. THOMAS:** Yes.

20 **MR. ENGELMANN:** All right.

21 Then at page 6 of your outline you have the
22 caption "Police Protocol" and you refer us to a protocol at
23 Tab 12. Can you just tell us a little bit about what that
24 protocol deals with?

25 **MR. THOMAS:** This is a protocol -- again

1 going back to something we spoke of earlier, this sort of
2 tells the people involved in the relationships what they
3 are to do and it gives a clear direction as to which party
4 and which stakeholder and what they're supposed to do in
5 the situation.

6 In fact, the Peel Board of Education played
7 a -- well, Peel would say this is a copy of their policy,
8 but the fact is it was put together several years before
9 the Province picked it up. Again, it really straightens
10 out who is doing what and for what reasons.

11 **MR. ENGELMANN:** Is this at all similar to --
12 you had a policy earlier about interrogation of pupils at
13 schools by police.

14 **MR. THOMAS:** Yes.

15 **MR. ENGELMANN:** Does this subsume that?

16 **MR. THOMAS:** Yes.

17 **MR. ENGELMANN:** And, sir, you also have a
18 protocol at Tab 13, the Ontario Eastern Region Police and
19 School Board Protocol. Can you tell us how that relates to
20 the provincial model that we saw at Tab 12?

21 **MR. THOMAS:** It follows it in a -- it just
22 takes it to a further extent and applies it to Eastern
23 Ontario. And again, for us it works for Eastern Ontario,
24 but it's a protocol. It clarifies a role. It also ensures
25 that a victim doesn't go through three different

1 investigations, you know, like starts in the vice-
2 principal's office, then the principal's office, then
3 she'll be helped. This has given us the ability to, when
4 we hear something and we know it doesn't sound right, we
5 better phone our partner, ask for advice, and often in the
6 advice portion our Children's Aid Society or the police
7 will say, "Leave that; that's our area. We'll be over.
8 We'll get started." To me, it really manages the
9 relationships very well.

10 **MR. ENGELMANN:** All right.

11 It seems to me the major thrust though is
12 looking at students as alleged perpetrators of crimes.
13 What you're saying is there is some reference to how to
14 deal with them as victims of crimes?

15 **MR. THOMAS:** Exactly. Yes, it does.

16 **MR. ENGELMANN:** And I note you say in your
17 outline that school principals are responsible for the day-
18 to-day implementation of this protocol?

19 **MR. THOMAS:** Yes.

20 **MR. ENGELMANN:** Do you know what, if any,
21 training, in-service or otherwise, they would have received
22 on this protocol?

23 **MR. THOMAS:** About twice a year on this
24 protocol. In fact, in another couple of weeks I'll be
25 meeting with all 160 or so of my principals and vice-

1 principals, lead managers, and we will go through
2 particular protocols that have to be looked at. Then
3 approximately halfway through the year, I'm expecting each
4 of our principals to have a staff meeting to again move
5 through protocols of this particular nature that would be
6 sensitive, and as we have new staff hired and staff move
7 on, to make sure that they're understood, that these are
8 the important protocols, and obviously one of them is
9 reporting disclosures as particularly critical.

10 **MR. ENGELMANN:** I'm just looking at page 6,
11 third paragraph. Does that address in summary form the
12 issues that are dealt with in the protocol?

13 **MR. THOMAS:** Page 6 of my report outline?

14 **MR. ENGELMANN:** Yes. In other words, police
15 investigations in schools, police access to information at
16 schools, et cetera?

17 **MR. THOMAS:** Yes.

18 **MR. ENGELMANN:** And, sir, if we could turn
19 to page 7 of your outline? This is the hiring and
20 volunteers. You talk about, to begin with, an online
21 teacher application form, and that's what we see at Tab 14?

22 **MR. THOMAS:** Yes.

23 **MR. ENGELMANN:** And this is something that's
24 now required for all candidates ---

25 **MR. THOMAS:** Yes.

1 **MR. ENGELMANN:** --- who wish to become
2 teachers at the Board?

3 How have hiring practices changed? You've
4 heard from both -- well, I don't know if you've heard, but
5 both our previous witnesses have talked about efforts in
6 the past either informally or formally to have sort of
7 consistent objective or impartial selection procedures to
8 hire staff. How has that changed, to your knowledge, or is
9 it more of the same?

10 **MR. THOMAS:** No. We now take our people who
11 are involved in hiring and train them, "This is what we're
12 looking for in the training". And so they'll move through
13 common agenda of questions and things they'll move through,
14 and if we're looking for French teachers, there will be
15 some training, what we're looking for there and standards,
16 if we're looking for a chemistry teacher. The committees -
17 - each of the principal-led committees would have a serious
18 amount of training on what to be looking for in the
19 candidates.

20 The other piece, of course, is a criminal
21 record check, which is for every single employee. As we
22 take a look, that's, I think, made it better.

23 **MR. ENGELMANN:** All right.

24 And, in fact, that is something that is
25 allowed as a result of Ontario Regulation 52101?

1 MR. THOMAS: Yes.

2 MR. ENGELMANN: That's at Tab 15?

3 MR. THOMAS: M'hm.

4 MR. ENGELMANN: So has the Board's practice
5 been to do the criminal background checks subsequent to the
6 passing of that regulation?

7 MR. THOMAS: Yes.

8 MR. ENGELMANN: And was it done before then,
9 to your knowledge?

10 MR. THOMAS: I don't know much about before,
11 but I believe it had all been started about the same time
12 when I crossed the province.

13 MR. ENGELMANN: All right.

14 So in or about 2001?

15 MR. THOMAS: Yes.

16 MR. ENGELMANN: And I'm just noting at Tab 4
17 that that criminal background check is now required of all
18 employees, not just new employees, but of existing
19 employees?

20 MR. THOMAS: Yes.

21 MR. ENGELMANN: Do you know how often that
22 is done?

23 MR. THOMAS: I have just recently done mine
24 again. So that would be two and a half years.

25 MR. ENGELMANN: Now, can you tell us a

1 little bit about the Ontario Education Services Corporation
2 you've listed on this page of your outline? Why is it that
3 a third party is conducting these various checks for school
4 boards?

5 **MR. THOMAS:** When the Board determined that
6 all employees, 5,500 approximately, and all the volunteers,
7 thousands were going to be done, what I understood at that
8 particular time, although I wasn't here in this area, but I
9 know in other jurisdictions that it became such a burden
10 for the police that organizations came forward to do this
11 and they, of course, are fully recognized and honourable,
12 and that service has been a real blessing.

13 We thought in the vision that at some point
14 you might have two and three, four months waiting to have
15 criminal record checks done because they would be piled up
16 on someone's desk when the whole province was moving
17 through this organization, and I believe there were others
18 that came forward that were able to provide this at a
19 faster rate.

20 **MR. ENGELMANN:** I'm just noting in the
21 second paragraph from the bottom, it says:

22 "Screening by OESC includes not only
23 convictions for sexually based offences
24 but any offence that might put a
25 student at risk."

1 I'm assuming criminal background checks
2 would produce criminal records of any sort, not just those
3 that might put a student at risk.

4 What, if any, kind of confidentiality
5 safeguards do you put in place with respect to volunteers
6 and/or employees in those circumstances?

7 **MR. THOMAS:** Can you elaborate on that one?

8 **MR. ENGELMANN:** Well, is there anything to
9 ensure that a criminal record for something that happened
10 perhaps a long time ago that has nothing to do with putting
11 children at risk would remain confidential?

12 **MR. THOMAS:** It would be at a very high
13 standard of confidentiality. What we would be doing is
14 that through our Human Resources Department, we would be
15 asking the person with the procedure to go through, "Why
16 have you not tried to have this off your record as you go
17 through?"

18 **MR. ENGELMANN:** And would it be limited with
19 respect to who might have that information within the
20 Board?

21 **MR. THOMAS:** Oh yes.

22 **MR. ENGELMANN:** And you have a policy with
23 respect to volunteers ---

24 **MR. THOMAS:** Yes.

25 **MR. ENGELMANN:** --- and the requirement for

1 criminal background checks. It says:

2 "Although not required by the
3 regulation, requirement for criminal
4 background checks has also been applied
5 to volunteers."

6 **MR. THOMAS:** Yes.

7 **MR. ENGELMANN:** Sir, "although not required"
8 that's something that youth-serving organizations have done
9 for many years; is it not?

10 **MR. THOMAS:** Yes, it is.

11 **MR. ENGELMANN:** And you've referenced
12 yourself some sporting agencies.

13 **MR. THOMAS:** Yes.

14 **MR. ENGELMANN:** So then I want to ask you a
15 little bit about transportation providers, and that's at
16 page 8 of your outline.

17 **THE COMMISSIONER:** Maybe we'll take the
18 lunch break after that then?

19 **MR. ENGELMANN:** Yes.

20 **THE COMMISSIONER:** Okay.

21 **MR. ENGELMANN:** To begin with, can you tell
22 us if -- and I think you have -- the School Board continues
23 to contract with transportation providers to get students
24 to and from school?

25 **MR. THOMAS:** Yes.

1 **MR. ENGELMANN:** Are there still a small
2 number of buses that the School Board has or is it all --
3 -

4 **MR. THOMAS:** We have no buses.

5 **MR. ENGELMANN:** No buses. All right.

6 So you're using either private contractors
7 or transit companies from cities like Cornwall?

8 **MR. THOMAS:** I believe now that we're 100
9 per cent private contractors.

10 **MR. ENGELMANN:** All right.

11 And there's some reference to the *Highway*
12 *Traffic Act* and regulations with respect to licences.

13 **MR. THOMAS:** M'hm.

14 **MR. ENGELMANN:** And that's at Tab 19. Is
15 that essentially what Mr. Dilamarter took us to as well,
16 the fact that if school bus drivers have been convicted of
17 certain *Criminal Code* offences in the last five years,
18 certainly those that might put children at risk, they would
19 not be granted licences to drive a school bus?

20 **MR. THOMAS:** Yes. We demand from our bus
21 operators the same level that we demand from our employees.

22 **MR. ENGELMANN:** Well, do you know how that
23 is done, in the sense that I'm just looking at page 8 of
24 your outline. It says:

25 "It is the Board's expectation that its

1 transportation service providers
2 conduct appropriate interviews,
3 reference checks and ongoing
4 evaluations of their employees."

5 Previous witnesses have told us that it
6 wasn't a requirement of the Board in its contracts.

7 Do you now know if it is a requirement of
8 the Board in its contracts?

9 **MR. THOMAS:** Our manager of transportation
10 has a very close working relationship and we take a look at
11 every single contract with each of our employers. We do
12 training of our bus drivers, the women and men that drive
13 for us and so forth, and we pay close attention to the
14 drivers on our routes.

15 **MR. ENGELMANN:** Do you know if there's
16 actually a formal requirement by way of contract?

17 **MR. THOMAS:** I don't know if there's a
18 formal, but I'm going to inquire after this.

19 **MR. ENGELMANN:** All right.

20 I'm just looking at the last paragraph of
21 that page, and that appears to be very similar to what your
22 predecessors have talked about, and that is that if the
23 Board becomes aware that a school bus driver has an
24 allegation of sexual misconduct or something that might put
25 a child at risk, the Board's policy is applied with respect

1 to that individual?

2 MR. THOMAS: Yes.

3 MR. ENGELMANN: And that is the suspension
4 with pay type approach?

5 MR. THOMAS: I'm not so sure if there is
6 suspension with pay. We're not their employer.

7 MR. ENGELMANN: That's true.

8 MR. THOMAS: The operator would determine
9 that.

10 MR. ENGELMANN: Okay. But in any event,
11 your policy would be that that individual can no longer
12 drive ---

13 MR. THOMAS: Exactly.

14 MR. ENGELMANN: --- children from the Board?

15 MR. THOMAS: Exactly.

16 MR. ENGELMANN: Mr. Commissioner, perhaps
17 that would be an appropriate place to pause. I will not be
18 that much longer with Mr. Thomas.

19 THE COMMISSIONER: All right.

20 MR. ENGELMANN: I know counsel have some
21 questions and Mr. Thompson for the Attorney General has
22 indicated he has to get back to Toronto for a matter. So
23 perhaps we can just change our order somewhat and allow him
24 to go first on the cross-examination.

25 THE COMMISSIONER: All right. Not a

1 problem.

2 So we will come back at what time?

3 **MR. ENGELMANN:** It's 12:35. When would you
4 like us back?

5 **THE COMMISSIONER:** Well, tonight we're --
6 what are we doing tonight? Today we're starting with --
7 well, we should be finished with this gentleman within an
8 hour or so and then will the next witness be ready to go at
9 that time?

10 **MR. ENGELMANN:** I believe so. Mr. Sherriff-
11 Scott is coming over the lunch hour, and I had advised him
12 that Bishop Durocher should be available after the
13 afternoon break.

14 **THE COMMISSIONER:** It will be an early
15 afternoon break then.

16 So we'll start at 2:00 and we'll see where
17 we go.

18 **MR. ENGELMANN:** Okay. Thank you.

19 **THE COMMISSIONER:** Thank you very much.

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

22 The hearing will reconvene at 2:00 p.m.

23 --- Upon recessing at 12:35 p.m./

24 L'audience est suspendue à 12h35

25 --- Upon resuming at 2:07 p.m./

1 L'audience est reprise à 14h07

2 **THE REGISTRAR:** This hearing of the Cornwall
3 Public Inquiry is now in session. Please be seated.
4 Veuillez vous asseoir.

5 **MR. ENGELMANN:** Mr. Commissioner, just
6 before I start this afternoon ---

7 **THE COMMISSIONER:** Yes.

8 **MR. ENGELMANN:** --- Mr. Manson wanted to
9 address you for a minute ---

10 **THE COMMISSIONER:** Oh yes?

11 **MR. ENGELMANN:** --- just on some disclosure
12 issues. So I will let him have the floor.

13 **THE COMMISSIONER:** What's this all about?

14 **MR. MANSON:** Mr. Commissioner, you will
15 recall the conversation we had of June 27th about
16 disclosure. I'm just giving a report.

17 **THE COMMISSIONER:** Oh, okay.

18 **MR. MANSON:** The hard drives were delivered,
19 as you know, on Friday, July 29th.

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

21 **MR. MANSON:** Your staff had been assured by
22 Super Gravity that the material would be compatible with
23 the Summation software that we use and also counsel for
24 Cornwall Police use.

25 **THE COMMISSIONER:** Right.

1 **MR. MANSON:** As it turned out, that wasn't
2 the case. There was a problem, a technical problem with an
3 element known as the image table. It was corrected this
4 morning.

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

6 **MR. MANSON:** So I just wanted to report that
7 until this afternoon, we weren't able to make use of the
8 disclosure, but our people in Toronto started at lunchtime
9 today.

10 So we lost a bit of time, but the problem is
11 corrected. I just wanted to advise you of that in case
12 matters compound rather than get easier.

13 **THE COMMISSIONER:** Thank you.

14 **MR. ENGELMANN:** I am just looking at Me
15 Boivin as well because I know the Cornwall Police Service
16 was using Summation. I don't know if you've had similar
17 difficulties. I don't know if you are able to comment,
18 sir.

19 **MR. BOIVIN:** Mr. Commissioner, we have had
20 similar problems and the technical resolution was being
21 discussed with the technical people in our office.
22 Hopefully it will have been resolved by midday today as
23 well.

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

25 **MR. ENGELMANN:** I am not sure if Mr. Manson

1 will have other submissions to make as a result of that,
2 but we will wait and see.

3 **DAVID THOMAS, Resumed/Sous le même serment:**

4 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.**
5 **ENGELMANN (CONT'D/SUITE):**

6 **MR. ENGELMANN:** Good afternoon, Mr. Thomas.

7 We are almost finished your evidence and I
8 noted just leafing through your Book of Documents that I
9 missed a tab that I think talks about your organizational
10 structure. Perhaps we could just go back there for a
11 minute.

12 It is Tab 3, and if you could just describe
13 what we see there for us. As I said, I think this related
14 to the first part of your outline of evidence.

15 **MR. THOMAS:** The -- well, you will find
16 myself as Director with an executive assistant. We have a
17 -- part of the corporation, Don Fairweather, Executive
18 Superintendent, reporting direct to me, he oversees the
19 business side of the organization and then the other side
20 is the curriculum-driven side. It also reports to me
21 through that particular line.

22 **MR. ENGELMANN:** So we have all of your
23 superintendents reporting to you?

24 **MR. THOMAS:** Yes.

25 **MR. ENGELMANN:** With the exception of the

1 Superintendent of Business who reports to your Executive
2 Superintendent?

3 **MR. THOMAS:** Exactly.

4 **MR. ENGELMANN:** And do some of those
5 superintendents or some of the individuals listed in the
6 boxes, are they responsible for families of schools that
7 you talked about earlier?

8 **MR. THOMAS:** Yes, Charlotte Patterson on the
9 right-hand side; Charlotte Patterson; Helen Lalonde; Susan
10 Edwards and Ted Kennedy each oversee a family of schools,
11 approximately 25 to 30 schools, and each of them has about
12 8,500 students that are under their supervision.

13 **MR. ENGELMANN:** Do those break down under
14 the old four boards?

15 **MR. THOMAS:** No.

16 **MR. ENGELMANN:** Or they're just four
17 regions?

18 **MR. THOMAS:** One of the things that I
19 determined in bringing some healing to this slamming these
20 four boards together was that we had the geography still
21 sort of the Hatfields and McCoys, the east and the west,
22 and we created the Capital Centre, which actually sort of
23 takes the capital region with Charlotte as the Super -- it
24 takes actually a bit from every single one of those and
25 because there's some common -- there's some very common

1 things with Russell, which is on the eastern side and
2 Carleton Place on the western side, although they're
3 approximately 100 kilometres apart, they have very similar
4 make-ups in that they're sort of bedroom communities for
5 Ottawa.

6 **MR. ENGELMANN:** Yes.

7 **MR. THOMAS:** And it was important for us as
8 a Board to understand that there's declining enrolment
9 almost in every jurisdiction of our Board. The only area
10 that we will grow is in the Kemptville, Carleton Place,
11 Almont through to Russell area, through to Hawkesbury where
12 we see the morning drivers all getting out and then driving
13 and so forth and they have become -- so the superintendent
14 there, we wanted him to really understand that very well.
15 So we created a single-family school, and it's called the
16 Capital Family of Schools.

17 **MR. ENGELMANN:** I am happy to say I see
18 those drivers going the other direction.

19 **MR. THOMAS:** Yes.

20 **MR. ENGELMANN:** All right.

21 Sir, then if we could turn to page 9 of Tab
22 1, your outline of evidence, and I think you've already
23 described for us what we see in the first paragraph, which
24 is in essence the practice that both Mr. Leger and Mr.
25 Dilamarter described as well.

1 **MR. THOMAS:** Yes.

2 **MR. ENGELMANN:** In the second paragraph, you
3 say:

4 "Depending upon the nature of the
5 allegation, the investigation might be
6 conducted by CAS and Police, or in
7 cases of misconduct not of a criminal
8 standard, the investigation might be
9 conducted by Board staff or on behalf
10 of the Board by a third party, such as
11 legal counsel or a social worker."

12 Can you give us some examples of what that
13 might be, sir?

14 **MR. THOMAS:** We had situations where
15 regrettably we may have someone who is off sick, says
16 they're sick but they're working for another employer or we
17 have someone who is incapable of working for us because of
18 something and we find them, you know, working for a private
19 contractor in some other place, and so although it may not
20 be illegal, it would be against our collective -- all the
21 different things we have, that we would do the
22 investigation ourselves.

23 **MR. ENGELMANN:** Might there also be forms of
24 sexual misconduct that would not be of a criminal nature?

25 **MR. THOMAS:** Yes, it would be -- there may

1 be some inappropriate behaviour, a teacher or a custodian
2 or something who is inviting kids back to their house to
3 swim in the pool or whatever and of a nature that it just
4 is not proper conduct.

5 **MR. ENGELMANN:** I understand that one of the
6 documents that you have provided us, and I believe it's the
7 -- and we will come to it at Tab 22 -- the Professional
8 Advisory from the Ontario College of Teachers ---

9 **MR. THOMAS:** Yes.

10 **MR. ENGELMANN:** --- also describes some
11 forms of sexual misconduct or sexual relations that might
12 not be of a criminal nature but would still be classified
13 as sexual misconduct if a teacher were to act in that
14 fashion towards a student?

15 **MR. THOMAS:** This broader definition we
16 would use and this would be part of the training that our
17 principals would have in the course of the start-up of the
18 year and also halfway through the year, I would expect them
19 to take their staff through this Ontario College of
20 Teachers advisory.

21 **MR. ENGELMANN:** So that's something that you
22 require of your principals?

23 **MR. THOMAS:** Yes.

24 **MR. ENGELMANN:** To review the advisory with
25 all of their teachers?

1 Okay. Just before we get there, and I'm
2 just looking at the middle then of page 9, we now have a
3 provision in the *Education Act*, which seems to mirror this
4 longstanding practice of the Board, and I am referring to
5 section 170(1) 12.1.

6 **MR. THOMAS:** Yes.

7 **MR. ENGELMANN:** Would you agree that that
8 is, in effect, now a statutory reference to the policy, the
9 informal and formal policy you've had for some time?

10 **MR. THOMAS:** Yes.

11 **MR. ENGELMANN:** All right.

12 And that is more fully set out at Tab 20:

13 "An Act to protect students from sexual
14 abuse and to otherwise provide for the
15 protection of students"

16 **MR. THOMAS:** Yes.

17 **MR. ENGELMANN:** We also have a definition of
18 sexual abuse that is defined in the *Ontario College of*
19 *Teachers' Act*?

20 **MR. THOMAS:** Yes.

21 **MR. ENGELMANN:** And presumably any of those
22 acts would be professional misconduct, which would lead to
23 job action?

24 **MR. THOMAS:** Yes.

25 **MR. ENGELMANN:** And you say that the Board

1 relies on the standard that is provided by the Ontario
2 College of Teachers; is that correct?

3 **MR. THOMAS:** Yes, we do.

4 **MR. ENGELMANN:** If we could just go there
5 for a minute at Tab 22, on the second page, we have sexual
6 abuse set out, and it appears we have the same three types
7 of acts set out. And then there's a -- I don't know if
8 this is a direction or a warning to teachers, the three
9 bullets that appear underneath. I think you had a question
10 from the Commissioner. It was a question about whether
11 there was zero tolerance with respect to sexual relations
12 or sexual intercourse between staff and students.

13 **MR. THOMAS:** Yes.

14 **MR. ENGELMANN:** And I understood your answer
15 to be that there is. There seems to be a description of
16 that there, but also there is on the next page a reference
17 to sexual relations or relationships. And it appears what
18 we are seeing is similar to what we see for a number of
19 professionals, whether they be psychologists, doctors,
20 others, who are in some kind of counselling or otherwise
21 treating of clients who may be vulnerable, there seems to
22 be restrictions on sexual relations that are set out here.
23 It would include former students suffering from
24 disabilities, et cetera?

25 **MR. THOMAS:** Yes.

1 **MR. ENGELMANN:** All right.

2 So all of those would be forms of
3 professional misconduct that would lead to job action?

4 **MR. THOMAS:** Yes.

5 **MR. ENGELMANN:** Now, I wanted to talk a
6 little bit about reporting requirements related to
7 professional misconduct and you have set out in your
8 outline several references to the *Ontario College of*
9 *Teachers Act* on the College reports to employers; the
10 employer reports to Colleges. Has this changed, Mr.
11 Thomas, with respect to the interaction between the
12 College, the professional body, and school boards?

13 **MR. THOMAS:** It is in the process of
14 changing.

15 **MR. ENGELMANN:** I am just now looking at
16 page 12 of your outline. There appears to be some
17 reporting requirement on employers where a teacher is
18 terminated.

19 **MR. THOMAS:** Yes.

20 **MR. ENGELMANN:** And it also indicates that
21 there is a reporting requirement where there are criminal
22 charges laid?

23 **MR. THOMAS:** Yes.

24 **MR. ENGELMANN:** So is that something that
25 the Board routinely does now if there's any kind of

1 criminal charge?

2 MR. THOMAS: Absolute by routine, yes.

3 MR. ENGELMANN: All right.

4 And that's irrespective if it's a criminal
5 charge involving students?

6 MR. THOMAS: Right.

7 MR. ENGELMANN: Any form of criminal charge?

8 MR. THOMAS: Any form of criminal charge.

9 MR. ENGELMANN: In your second paragraph,
10 you said:

11 "The Act was also amended to ensure
12 that school boards who had filed
13 reports would be informed of actions
14 taken by the College."

15 And then you go on.

16 So I'm just wondering about that situation
17 before and what kind of interaction there was between the
18 College and school boards?

19 MR. THOMAS: We've had obligation to report
20 and often we would want information to come back to us. If
21 there was a discipline, we would want to have it come back
22 to us so that it would help us determine where we were
23 moving with a situation or a challenge, and they, in some
24 cases, have been very slow to get those things back to us
25 or we don't get them at all.

1 **MR. ENGELMANN:** I want to talk to you about
2 your middle paragraph and that's the criminal charges and I
3 think your predecessor talked about this, and I apologize,
4 you may have also talked about it, but this is the
5 situation where presumably you have removed the teacher
6 from dealing with children, teacher or any employee.
7 That's your longstanding policy. It is also now a
8 requirement in law under the *Education Act*.

9 **MR. THOMAS:** Yes.

10 **MR. ENGELMANN:** You await the result of the
11 criminal trial. If the criminal trial ends in a
12 conviction, you confirm the termination. Is that correct?

13 **MR. THOMAS:** Yes.

14 **MR. ENGELMANN:** If the criminal trial
15 doesn't end in a conviction, whether the person is
16 acquitted, charges are stayed or there may be some
17 technical reason why the case didn't continue, do you
18 simply bring the person back into the workplace or what do
19 you do?

20 **MR. THOMAS:** No, we would have a
21 comprehensive review. In fact, that's one of our concerns
22 about the College. In several cases, when they're doing
23 part of their investigation and they have their hearing, is
24 that we would like to be notified so we could be at the
25 hearing to hear all the information they're receiving as

1 well, so that will help us with our disposition. But we
2 reserve the right to, no matter what happens at the
3 criminal trial or the hearing, we reserve the right to
4 terminate as well.

5 **MR. ENGELMANN:** So if that criminal burden
6 is not met for whatever reason, the Board can choose to
7 terminate the employment of the individual on its own
8 investigation in any event. Is that what you are saying?

9 **MR. THOMAS:** Yes.

10 **MR. ENGELMANN:** Now, what about the -- you
11 reference an issue that came up in the Robins Report about
12 teachers perhaps being unwilling to report other teachers.

13 Perhaps you could just describe that for us
14 and what the problem was and how it may have been addressed
15 recently.

16 **MR. THOMAS:** Well, we're in an unionized
17 environment in nearly all aspects of public education and
18 one of the issues that comes up with our federations and
19 our union is if you were perhaps issuing a negative report
20 to a manager or a boss or a principal about a fellow
21 employee, in the regs of the different unions they have
22 clauses like you have to inform your fellow member in 72
23 hours what you have said, et cetera.

24 In some cases, and I say limited cases and
25 this is not a general -- is that some people think that

1 that might be of more importance than reporting a situation
2 of a negative report on a person over sexual abuse or with
3 something else.

4 **MR. ENGELMANN:** This situation you're
5 describing was something that teachers were required to do
6 under their federations or unions. Is that correct?

7 **MR. THOMAS:** Yes.

8 **MR. ENGELMANN:** And if they reported on a
9 fellow teacher, they had to do so publicly in the sense
10 that they had to -- they had to come forward and say ---

11 **MR. THOMAS:** They had to come forward in
12 person that they had made the report or they would give a
13 copy of the report that they had given to their boss or
14 whoever they had given it to.

15 **MR. ENGELMANN:** All right.

16 And as I understand it, there was an
17 amendment to the *Teaching Profession Act* to deal with that.

18 **MR. THOMAS:** Yes.

19 **MR. ENGELMANN:** And I'm just going to ask
20 you to turn -- I think it's at Tab 20.

21 **MR. THOMAS:** Yes.

22 **MR. ENGELMANN:** I'm looking at -- it's the
23 bottom of page 182, on to page 183 at Tab 20.

24 **(SHORT PAUSE/COURTE PAUSE)**

25 **THE COMMISSIONER:** What page are you on?

1 **MR. ENGELMANN:** Actually, I think it's
2 described in -- correct me if I'm wrong -- at the top of
3 page 183, "Reporting sexual abuse".

4 **MR. THOMAS:** I've got this as Chapter 7, an
5 Act to protect the students from sexual abuse.

6 **THE COMMISSIONER:** No, it's an amendment to
7 the *Teaching Profession Act*.

8 **MR. ENGELMANN:** Yes. If you could turn to
9 page 183, sir?

10 **MR. THOMAS:** Tab?

11 **MR. ENGELMANN:** Tab 20. The pages are very
12 -- there's very small print but ---

13 **MR. THOMAS:** One eighty-three (183)?

14 **MR. ENGELMANN:** Yes.

15 **MR. THOMAS:** Yes.

16 **MR. ENGELMANN:** We have the English on the
17 left.

18 **MR. THOMAS:** Yes.

19 **MR. ENGELMANN:** It says:

20 "Despite any regulation made under
21 subsection (1), a member who makes an
22 adverse report about another member
23 respecting suspected sexual abuse of a
24 student by that other member need not
25 provide him or her with a copy of the

1 report or with any information about
2 the report."

3 To your knowledge, is that the legislative
4 response to this problem within the Teachers' Federation?

5 **MR. THOMAS:** Absolutely.

6 **MR. ENGELMANN:** Okay.

7 **THE COMMISSIONER:** As I understand it, if
8 you say something, an adverse comment about a fellow
9 professional teacher, that the union can discipline you in
10 the event that it was wrong or it was ill-fated or
11 malicious, I suppose.

12 **MR. THOMAS:** Yes.

13 **MR. ENGELMANN:** Did that result in some form
14 of chill or some form of ---

15 **MR. THOMAS:** People can say that some people
16 just don't want to have a messy situation and et cetera, et
17 cetera, and they see these things as awkward and difficult.
18 So this was a way for -- a potential for them to say,
19 "Well, I don't have to because it would -- you know, I'm
20 not prepared to make that report in writing or whatever".
21 And what this has helped us do is that you have an
22 obligation under the law to report.

23 **MR. ENGELMANN:** So this would have been a
24 response to one of those recommendations from province?

25 **MR. THOMAS:** Yes.

1 **MR. ENGELMANN:** All right.

2 And this deals with a teacher and a teacher.
3 This doesn't deal with a situation where the psychologist
4 or social worker or someone else might be receiving that
5 information from the student in an otherwise confidential
6 relationship but having the duty to report under the Act?

7 **MR. THOMAS:** No, they have duties to report
8 too.

9 **MR. ENGELMANN:** Yes, exactly. The teacher
10 would as well.

11 **MR. THOMAS:** Yes.

12 **MR. ENGELMANN:** Okay.

13 Now, as well, just to end the page, you're
14 talking about who gets involved if the suspect is a staff
15 member and you have a designated official who would deal
16 with that then, not the local principal?

17 **MR. THOMAS:** The local principal would talk
18 to their superintendent. The superintendent would take
19 that to the Human Resources person.

20 **MR. ENGELMANN:** All right.

21 Mr. Dilamarter told us that it was at least
22 his preference or the Board's preference at that time that
23 for reasons of impartiality or for other reasons, that it
24 was best not to have the principal who may have known the
25 teacher for a number of years deal with the case.

1 Is that still one of the reasons the Board
2 uses for this type of policy or are there other reasons?

3 **MR. THOMAS:** No, very similar reasons.
4 There's also that you have a person there in Human
5 Resources Department who has specific training.

6 **MR. ENGELMANN:** Okay. Those are all my
7 questions, Mr. Thomas. Thank you very much for your
8 evidence.

9 You may have some questions from other
10 counsel who will identify themselves and also identify who
11 it is they act for. Thank you.

12 **THE COMMISSIONER:** All right. So Mr.
13 Thompson gets the ---

14 **MR. THOMPSON:** I just have a few questions.

15 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
16 **THOMPSON:**

17 **MR. THOMPSON:** Good afternoon, Mr. Thomas.
18 First, I'd just like to thank my friend and all the parties
19 for granting me this indulgence. My name is Christopher
20 Thompson. I'm counsel for the Ministry of the Attorney
21 General.

22 I just want to clarify one matter off the
23 top. You're here on behalf of the Upper Canada District
24 School Board as the Director of Education.

25 **MR. THOMAS:** Yes.

1 **MR. THOMPSON:** You're not here on behalf of
2 any other school board?

3 **MR. THOMAS:** No.

4 **MR. THOMPSON:** And there's four school
5 boards located within the same geographic area as the Upper
6 Canada District School Board?

7 **MR. THOMAS:** Yes.

8 **MR. THOMPSON:** There's a French school board
9 and then both a public and French -- sorry, both a public
10 and Catholic French school boards?

11 **MR. THOMAS:** There's a public board,
12 ourselves. Our co-chairman is the Catholic board, a French
13 Catholic board and a French public board.

14 **MR. THOMPSON:** Okay.

15 **(SHORT PAUSE/COURTE PAUSE)**

16 **MR. THOMPSON:** So you discussed a little bit
17 earlier about your prior experience with the Peel Board and
18 then your present experience, but I guess you're not here
19 to speak on behalf of all the other boards in Ontario?

20 **MR. THOMAS:** No.

21 **MR. THOMPSON:** No. And I'd just like to
22 take you to the Robins Report. It's at Tab 4 on the very
23 last page.

24 I'm looking at the third paragraph. It has
25 here:

1 "School boards should not feel wed to
2 existing policies or protocols.
3 Variations in protocols between
4 different school boards is to be
5 expected. What might be appropriate
6 for Toronto may not be appropriate for
7 rural, northern or smaller
8 communities."

9 Would you agree with that, sir?

10 **MR. THOMAS:** Absolutely.

11 **MR. THOMPSON:** Okay. I would just like to
12 move on to another topic. Would it be fair to say that the
13 Board receives funding for professional development?

14 **MR. THOMAS:** Yes.

15 **MR. THOMPSON:** And some of that funding is -
16 - would you describe it as unsweatered in the sense that
17 the Board had discretion in how to allocate those funds?

18 **MR. THOMAS:** I think there is some
19 unsweatered funds, but more and more I see less and less
20 but most of it clearly is earmarked and we have to report
21 back exactly on the place it was used and how it was used.
22 We're having little discretion now on money that's
23 forwarded down in curriculum-related issues.

24 **MR. THOMPSON:** All right.

25 But you would agree with me that there is

1 some money that is in the discretion of the Board on how
2 they wish to spend it for professional development?

3 **MR. THOMAS:** I would say it's of such a
4 significantly small amount that I couldn't comment on it.
5 Right now, our major amounts of money are earmarked for
6 literacy, numeracy, for our school success programs, for
7 our student, our adult programs. So they're clearly marked
8 and we have clear reporting places that go back to say
9 where was this money spent and actually right to the very
10 teacher is identified and they sign up and list that they
11 were at such and such an activity.

12 **MR. THOMPSON:** Okay. I guess what I'm
13 trying to get at is that there is a discretionary -- you
14 told us that there is a discretionary amount of funds that
15 the Board determines how they wish to spend for
16 professional development and there's no impediment on the
17 Board to spending that for training, for identifying
18 children in need of protection or for training to help
19 establish relationships of trust with students. Would that
20 be fair to say?

21 **MR. THOMAS:** I would say that if I was to
22 direct my superintendent curriculum to begin a program at
23 my discretion, I'd have the Minister's staff asking me why
24 I'm doing it.

25 **MR. THOMPSON:** So you're saying that it's

1 not at your discretion?

2 **MR. THOMAS:** They'd be asking -- it's my
3 discretion. I just have to explain why this is such a
4 priority and why we're using it and et cetera.

5 **MR. THOMPSON:** Okay. There was a few
6 documents I understand you've been provided with before you
7 testified today and I'd like to take you to those
8 documents. I believe all the parties have a copy of those
9 as well.

10 **THE COMMISSIONER:** Yes. We should just file
11 them as exhibits.

12 **MR. THOMPSON:** Certainly. There's three
13 documents. The first document, which I believe would be
14 Exhibit 55, is entitled "Policy/Program Memorandum No.
15 120".

16 **THE COMMISSIONER:** So 55, Madam Clerk? All
17 right.

18 --- **EXHIBIT NO./PIÈCE No. P-55:**

19 Policy/Program Memorandum No. 120

20 **THE COMMISSIONER:** And the other one?

21 **MR. THOMPSON:** The next one would be the
22 "Violence-Free Schools Policy", Exhibit 56.

23 **THE COMMISSIONER:** Yes.

24 --- **EXHIBIT NO./PIÈCE No. P-56:**

25 Violence-Free Schools Policy

1 **MR. THOMPSON:** And the last document would
2 be "Policy/Program Memorandum No. 9".

3 **--- EXHIBIT NO./PIÈCE No. P-57:**

4 Policy/Program Memorandum No. 9

5 **MR. THOMPSON:** These are documents from the
6 websites of the Ministry of Education, as you can see from
7 the web address at the bottom of the page of each of these
8 documents.

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

10 **MR. THOMPSON:** And I'd just like to look at
11 the first document mentioned. That would be Exhibit 55 and
12 I note this is a policy/program memorandum. I take it
13 you've seen these before?

14 **MR. THOMAS:** Yes.

15 **MR. THOMPSON:** And the date of issue -- this
16 is a little bit old, but I believe it predates your tenure
17 as Director, but the date here is June 1st, 1994?

18 **MR. THOMAS:** Yes.

19 **MR. THOMPSON:** I'd just like to go down to
20 the heading "Policy Document on Violence Prevention". I'm
21 just going to read out that paragraph.

22 The document Violence-Free Schools Policy is
23 directed and intended for school boards. It outlines the
24 process for developing a violence prevention policy and the
25 mandatory components of the policy. The document also

1 outlines the required procedures to follow for the
2 reporting of violent incidents to the police and the
3 Ministry and the recording of such incidents in the Ontario
4 Student Record.

5 Is that correct?

6 **MR. THOMAS:** Yes.

7 **MR. THOMPSON:** And I'll just highlight the
8 language here. It's the directive intended for school
9 boards and I just want to turn to the actual policy next
10 which is Exhibit 56 and it's entitled "Violence-Free
11 Schools Policy" dated in 1994. Is that correct?

12 **MR. THOMAS:** Yes.

13 **MR. THOMPSON:** I'd like to just look at part
14 1 and you'll notice that the title for it is "Framework for
15 School Boards' Violence Prevention Policies" and there is a
16 Roman numeral III below that heading entitled "Policy
17 Components".

18 **MR. THOMAS:** Yes.

19 **MR. THOMPSON:** And below the Roman numeral
20 III, there is the letter "G" on Staff Development. I'd ask
21 if you could turn to where "G" is and I can advise you that
22 it's on page 11 of 22.

23 Actually, my apologies. First, can I take
24 you to page 3 of 22? I'm looking at the first full
25 paragraph.

1 "All school boards shall develop a
2 violence prevention policy in
3 consultation with community partners
4 including students, staff, parents or
5 guardians, community agency services
6 such as the police, community
7 organizations that reflect the
8 diversity of the community including
9 racial and ethno-cultural groups within
10 the Board's jurisdiction, the
11 Aboriginal community, business and
12 labour and other groups."

13 **MR. THOMAS:** Yes.

14 **MR. THOMPSON:** All right.

15 And I'd just ask you to turn to the page 11
16 of 22 once again. This is speaking to the staff
17 development component of the policy. I'll read a few parts
18 of that. The first paragraph:

19 "School boards should provide
20 opportunities for all staff to acquire
21 the knowledge, skills and values
22 necessary to develop and maintain a
23 violence-free school environment."

24 And the third paragraph:

25 "As part of their implementation plans,

1 school boards/schools must determine
2 priorities for staff development.
3 Boards may wish to pursue opportunities
4 to develop training programs in
5 collaboration with other groups such as
6 the police, social service agencies,
7 community organizations, aboriginal
8 elders and parent associations. When
9 determining staff development
10 priorities and implementation plans the
11 following elements should be
12 considered. For all staff recognizing
13 signs of physical, sexual, or mental
14 abuse and knowing what to do (e.g. to
15 whom to report an incident)."

16 Did I read that correctly, sir?

17 **MR. THOMAS:** Yes.

18 **MR. THOMPSON:** And so then would you agree
19 with me that as early as 1994, the Ministry of Education
20 was recommending staff development for recognizing signs of
21 physical, sexual, or mental abuse?

22 **MR. THOMAS:** Yes.

23 **MR. THOMPSON:** Please bear with me for one
24 moment.

25 And I'd just like you to turn to the next

1 document; that's Exhibit 57, and it's entitled "Policy
2 Program Memorandum Number 9. Subject: Reporting of
3 Children in Need of Protection", dated August 10th, 2001.

4 **MR. THOMAS:** Yes.

5 **MR. THOMPSON:** And I'd just ask you to flip
6 to the very last page, page 3 of 3, and the last heading on
7 that page is "Responsibilities of Directors of Education",
8 and it has:

9 "Directors of Education are requested
10 to ensure that all staff members are
11 aware of and understand the relevant
12 sections of the *Child and Family*
13 *Services Act*, particularly the
14 requirement to report suspected cases
15 of children in need of protection,
16 school board policies and procedures on
17 reporting suspected cases of children
18 in need of protection conform with the
19 provisions of the *Child and Family*
20 *Services Act*."

21 **MR. THOMAS:** Yes.

22 **MR. THOMPSON:** And would you agree, sir,
23 that those are part of your responsibilities as a director
24 of education?

25 **MR. THOMAS:** Yes, I do.

1 **MR. THOMPSON:** Thank you very much, Mr.
2 Thomas.

3 **MR. THOMAS:** Thank you.

4 **THE COMMISSIONER:** All right.
5 Mr. Manson.

6 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**
7 **MANSON:**

8 **MR. MANSON:** If we can just look at Tab 6
9 very briefly, Mr. Thomas, and my note says page 40. I'm
10 not sure if it's the document page or the file page. Can
11 you slow down? It's still coming. Here it is. Thank you.

12 This is the page that deals with the
13 question of whether a principal should have a role in the
14 duty to report process. Can we just scroll down a touch,
15 please? I just want to read the paragraph that starts:

16 "Given the contentious nature of the
17 reporting process many school board
18 procedures historically had the teacher
19 reporting their suspicion to the
20 principal who then relayed the referral
21 to CAS."

22 I'm not sure if you were here earlier, but
23 this would reflect your Board's policy as of 1989; correct?

24 **MR. THOMAS:** Yes.

25 **MR. MANSON:** When you were with Peel, did

1 Peel have a similar policy?

2 **MR. THOMAS:** A similar policy, yes.

3 **MR. MANSON:** So they also, to some extent,
4 inserted the managerial hierarchy in the duty reporting
5 process?

6 **MR. THOMAS:** I can't remember exactly in
7 Peel, but we made a move in Peel -- now, I can be
8 corrected, but the principal and teacher upon disclosure
9 would make the report, and if the teacher felt that they
10 wanted to not meet with the principal, they too could do
11 it. In fact, I think there was a requirement to do the
12 same.

13 **MR. MANSON:** But you would agree that a
14 number of boards inserted the principal in the process? It
15 wasn't just Cornwall?

16 **MR. THOMAS:** No, you're absolutely right.

17 **MR. MANSON:** And obviously from this
18 document, there was some controversy over the insertion of
19 the principal. And earlier you explained that this change
20 was the result of, I believe you said, a new regulation.

21 **MR. THOMAS:** I believe so, yes.

22 **MR. MANSON:** I think it's more accurate to
23 say that it was as a result of a change in the Act itself.
24 Mr. Commissioner, section 72(3) was inserted that made it
25 quite clear the reporting had to go directly.

1 **MR. THOMAS:** Yes.

2 **MR. MANSON:** My question is this; given that
3 it was a legislative change rather than a regulation, can
4 you recall what the impetus was for that? Was there some
5 event that produced the amendment?

6 **MR. THOMAS:** I don't know.

7 **MR. MANSON:** And my understanding is that
8 the amendment was effected by the Statute of Ontario in
9 1999. This document that we're looking at, Tab 6, is
10 effective July 2001; is that correct?

11 **MR. THOMAS:** You'll have to take me where
12 you ---

13 **MR. MANSON:** I'm going right to the early
14 pages of Tab 6. It says "Effective July 15th, 2001"
15 somewhere -- there, right at the --- Oh, July 1st 2001.

16 **MR. THOMAS:** Okay. Yes.

17 **MR. MANSON:** So my question is what did the
18 Cornwall Board do between 1999 and 2001? Did it have a new
19 protocol?

20 **MR. THOMAS:** No.

21 **MR. MANSON:** It didn't.

22 If we could speak just quickly about bus
23 drivers again. Can we turn to Tab 15; that's Ontario
24 Regulation 521? Mr. Engelmann referred you to this. This
25 is the document dealing with criminal background checks

1 that was enacted in 2002, I believe, requiring all boards
2 to pursue criminal background checks for all employees;
3 correct?

4 MR. THOMAS: Yes.

5 MR. MANSON: This document, Mr. Thomas,
6 specifically excludes bus drivers, does it not, if you look
7 at section 1(2)?

8 MR. THOMAS: Yes.

9 MR. MANSON:

10 "An individual who would be a service
11 provider under this regulation only by
12 reason of being a school bus driver, a
13 driving instructor, or both, is not a
14 service provider."

15 And then if you scroll up and we look at
16 section 1, we see that the obligation -- keep coming down:

17 "Service provider means an individual
18 who comes into direct contact with
19 pupils on a regular basis."

20 And then if we scroll down further -- it
21 must be section 3 -- the obligation -- there, section 2:

22 "For the purpose of ensuring the safety
23 of pupils every board shall collect a
24 personal criminal history of every
25 individual who is either an employee or

1 a service provider."

2 And my point is simply that this regulation
3 excludes bus drivers from the definition of a service
4 provider, assuming that they're employed by a contractor.

5 **MR. THOMAS:** Yes.

6 **MR. MANSON:** So it's accurate to say that
7 your Board, in terms of doing any checks on the background
8 of bus drivers, relies entirely on the contractor or the
9 limitation in the licensing provision.

10 **MR. THOMAS:** We depend on the contractors.

11 **MR. MANSON:** Thank you.

12 Those are my questions, Mr. Thomas.

13 **THE COMMISSIONER:** Mr. Lee.

14 **MR. LEE:** I have no questions, Mr.
15 Commissioner.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Chisholm.

18 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

19 **CHISHOLM:**

20 **MR. CHISHOLM:** Good afternoon, Mr. Thomas.
21 My name is Peter Chisholm. I am counsel for the local
22 Children's Aid Society.

23 If I could take you, please, to your
24 outline, which is found at Tab 1, and specifically to page
25 4 of 12. In the last paragraph on that page it reads:

1 "Where police or CAS have declined to
2 investigate an allegation involving
3 student sexual misconduct or following
4 an investigation that involves a
5 student..."

6 Do you have that paragraph, sir?

7 **MR. THOMAS:** Yes, I do.

8 **MR. CHISHOLM:** Am I correct, sir, that what
9 you're speaking of there is a situation where the
10 Children's Aid Society's jurisdiction is not invoked
11 because you're dealing with a person who would not be
12 considered a child to be in need of protection?

13 **MR. THOMAS:** Exactly.

14 **MR. CHISHOLM:** You're not making reference
15 to a case where CAS, the Society, has failed in its duty to
16 conduct ---

17 **MR. THOMAS:** Not at all.

18 **MR. CHISHOLM:** That's my only question.

19 Thank you, sir.

20 **THE COMMISSIONER:** Thank you.

21 Probation and Correction?

22 **MR. ROSE:** No questions.

23 **THE COMMISSIONER:** Thank you.

24 Mr. Boivin. Maître Boivin?

25 **MR. BOIVIN:** No questions.

1 **THE COMMISSIONER:** Merci.

2 OPP?

3 **MS. COSTOM:** No questions.

4 **THE COMMISSIONER:** OPPA? Nobody there. All
5 right.

6 Upper Canada School Board?

7 **MR. KEEL:** Yes, Mr. Commissioner.

8 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

9 **KEEL:**

10 **MR. KEEL:** Mr. Thomas, I wanted to clarify -
11 - and it's Bob Keel on behalf of the Upper Canada District
12 School Board.

13 Mr. Thomas, I wanted to clarify some
14 questions that you were asked, and the first is, Mr.
15 Thompson on behalf of the Attorney General was asking you
16 to look at Exhibit 56 and, in particular, page 11 ---

17 **THE COMMISSIONER:** I'm sorry; can I stop you
18 for a moment? I notice that Mr. Scott is here for the
19 Diocese, and I don't know if you wanted to participate in
20 the Cross-Examination. I'm sorry. Would you have any
21 questions?

22 **MR. SCOTT:** No offence taken, Mr.
23 Commissioner. No, I have no questions. Thank you very
24 much.

25 **THE COMMISSIONER:** Thank you.

1 I'm sorry, Mr. Keel. Go ahead.

2 **MR. KEEL:** And Mr. Thompson was asking you
3 specifically about earmarked or discretionary funds, and
4 you had made a comment about if you were using
5 discretionary funds for, for example, training with respect
6 to sexual misconduct there might be some concerns. I'd
7 like you to elaborate a little bit more on what those
8 concerns might be.

9 **MR. THOMAS:** The -- first of all, we have
10 very tight restrictions as to where we spend our money and
11 how we would have to report it.

12 The other concern that I would have with
13 starting in a program and saying that we took some of our
14 discretionary funds away from literacy or numeracy or one
15 of our science initiatives to do this, it would probably
16 not come to the right amount to do such a thing.

17 In fact, what I've learned, and particularly
18 in my Peterborough experience, was that there is a great
19 deal of time in preparation. You'd have to spend
20 considerable amount of resources in preparing a community
21 for that, bringing the team together, your social workers,
22 your psychologists, having all the right people, and then
23 your Police Services Board were prepared for the training;
24 get all that training going and then the whole aspect of
25 planning a rollout, recognizing that potentially as an

1 employer of approximately 5,500 staff that if we take a
2 look at the numbers and they pan out that 1 in 10 or 1 in
3 12, 1 in 2 in certain communities are victims of sexual
4 abuse. We know that going into preparation for the very
5 program you'd have to spend some time really dealing with
6 some healing issues of your own staff, then moving forward
7 in such a way that you can move in an aggressive, assertive
8 manner to get your kids to make your community a really
9 safe place. That would take a considerable amount of money
10 there.

11 Then you would have to have -- for example,
12 when I was involved in the program, we'd have disclosures
13 later after the actors had gone through their presentation,
14 and you'd have 10, 15 kids in a school of 200 come forward
15 with allegations, and you'd have to have trained people
16 there to deal with each one in a very serious manner as
17 you're dealing with it. And those things, you'd have to
18 have the social work people in place. So just to sort of
19 move this out, it would take a great deal of time and
20 thought and planning, and a board would have to identify
21 this as a major issue, and it would strategically be set up
22 so it would have all the support to make it a very
23 worthwhile event.

24 **MR. KEEL:** Now, just to follow that through
25 a little bit. Is that something that Upper Canada District

1 School Board might look at as a result, for example, of the
2 Commission or of these incidents?

3 **MR. THOMAS:** I believe it's important that
4 we do examine this closely and come up with a comprehensive
5 plan for Eastern Ontario.

6 **MR. KEEL:** And when you say Eastern Ontario,
7 do I take that to mean that that would be for the four
8 boards at the least?

9 **MR. THOMAS:** I would hope that our
10 coterminous board and the three other boards would agree
11 that this would be a very worthwhile endeavour to become
12 involved in.

13 **MR. KEEL:** And in terms of process, would
14 you then make a submission to the Ministry of Education for
15 funding?

16 **MR. THOMAS:** I would make a submission with
17 my colleagues for a proposal that will be on the sort of
18 sweated money that comes down. I wouldn't want to sort
19 of steal from certain envelopes. I would like it to be a
20 stand-alone initiative that would serve the community in a
21 very positive way.

22 **MR. KEEL:** So in keeping with your comments
23 before to the Commissioner that might be something that the
24 Commission might look at?

25 **MR. THOMAS:** I would like to think that --

1 going back to something I said earlier -- my predecessor
2 Jim, who was up here and gave a speech about if the kids
3 are hungry, how are they going to read? And so he set up a
4 breakfast program.

5 Well, if you have a child who is hurting and
6 in an abusive situation and is worried about an uncle
7 coming back for the weekend or so and so coming to the
8 house or what can happen, I think that even the dullest
9 person would realize that may have a real hindrance on
10 their ability to learn and I think the faster we can move
11 to create the safe community that we want is very
12 important.

13 **MR. KEEL:** If I could then move you on to
14 another topic, and if you could turn to page 7 of your
15 summary just to clarify a couple of comments that counsel
16 made reference to, but I wanted to get a little bit more
17 detail. This is under number 6, employee hiring and
18 volunteers.

19 **MR. THOMAS:** Sorry, I'm not on the same
20 page.

21 **MR. KEEL:** I'm sorry; your summary of the
22 presentation.

23 **MR. THOMAS:** What page?

24 **MR. KEEL:** Page 7.

25 **THE COMMISSIONER:** Paragraph 6 ---

1 **MR. THOMAS:** Paragraph 6 which is on your
2 screen.

3 **THE COMMISSIONER:** Hiring of volunteers.

4 **MR. THOMAS:** Got it, yes. Sorry.

5 **MR. KEEL:** Sorry about that. If you go down
6 to the third paragraph, it makes reference to the Board's
7 practice with respect to requiring a vulnerable person's
8 reference check.

9 **MR. THOMAS:** Yes.

10 **MR. KEEL:** Can you tell us what that is?

11 **MR. THOMAS:** Well, the vulnerable person's
12 reference is where we get information on the person,
13 perhaps whether charges were and that were either dismissed
14 or charges that were -- it would give a full record of the
15 person's involvement with the police.

16 **MR. KEEL:** And how does that differ, if
17 anything, from the criminal background check?

18 **MR. THOMAS:** A criminal background check
19 would only give you information on if there was a
20 conviction.

21 **MR. KEEL:** And you refer to new hires. Why
22 just new hires?

23 **MR. THOMAS:** The piece for the new hires is
24 the fact that we have all these people already working for
25 us and to go through, and what we understand -- and it's

1 not a policy -- is that we have all kinds of employees who
2 are working without criminal records, et cetera, but we do
3 know that some of the people who act out in an
4 inappropriate manner do not have criminal records.

5 **MR. KEEL:** And just to clarify, the
6 regulation requires a criminal background check. So would
7 the vulnerable person's check be more than what's required
8 by the regulation?

9 **MR. THOMAS:** Yes.

10 **MR. KEEL:** And if I could then take you to
11 Tab 17 of the documents, which is the Ontario Education
12 Services Corporation Agreement ---

13 **MR. THOMAS:** Yes.

14 **MR. KEEL:** --- first of all, I wanted to ask
15 you, are you familiar with the Ontario Education Services
16 Corporation?

17 **MR. THOMAS:** Yes, I am.

18 **MR. KEEL:** Can you just tell us briefly what
19 that is?

20 **MR. THOMAS:** It's an organization that's
21 come together to give boards of education quick access to
22 criminal record checks and so forth.

23 **MR. KEEL:** And when you say boards, do you
24 mean on a provincial basis?

25 **MR. THOMAS:** Yes.

1 **MR. KEEL:** And then would that be referred
2 to somewhat in paragraph (b) on the first page, the boards
3 referred to?

4 **MR. THOMAS:** Yes.

5 **MR. KEEL:** And so it would be public as well
6 as Catholic that wish to participate?

7 **MR. THOMAS:** Yes.

8 **MR. KEEL:** This particular agreement refers
9 to service providers. Do you know whether there's a
10 similar initiative with respect to staffing?

11 **MR. THOMAS:** Yes.

12 **MR. KEEL:** And is that with respect to the
13 criminal background checks for existing staff?

14 **MR. THOMAS:** Yes.

15 **MR. KEEL:** And I wanted to just -- if you
16 could go over to page 5 of the agreement, counsel did ask
17 you a couple of questions about confidentiality and I
18 wanted to take you through a couple provisions. First of
19 all, are you familiar with the legislation dealing with
20 privacy in school boards?

21 **MR. THOMAS:** Yes.

22 **MR. KEEL:** And can you just tell us what
23 that is?

24 **MR. THOMAS:** Well, it's information we kept
25 in strictest confidence.

1 **MR. KEEL:** Sorry, are you familiar with the
2 actual legislation, the name of it?

3 **MR. THOMAS:** No.

4 **MR. KEEL:** So this is provisions with
5 respect to confidentiality?

6 **MR. THOMAS:** Yes.

7 **MR. KEEL:** And are you aware of who, for
8 example, receives the information and how it is checked and
9 monitored in terms of providing some confidentiality for
10 the service provider or the employee?

11 **MR. THOMAS:** Yes, I am, in our HR
12 Department.

13 **MR. KEEL:** All right.

14 And who do they work with, if it was, for
15 example, this type of agreement?

16 **MR. THOMAS:** This agreement was signed on --
17 we worked with the OESC and they would work with our HR
18 Department.

19 **MR. KEEL:** And other than bus drivers, which
20 you have just dealt with, to your knowledge, does this
21 apply to all service providers within the School Board?

22 **MR. THOMAS:** Yes, it does.

23 **MR. KEEL:** So then if I could just
24 understand it, you have existing staff, which is a criminal
25 background check?

1 **MR. THOMAS:** Yes.

2 **MR. KEEL:** You have new staff which is a
3 vulnerable person's check. You have service providers
4 pursuant to this agreement and then bus drivers pursuant to
5 the other legislation. Is that fair?

6 **MR. THOMAS:** Yes.

7 **MR. KEEL:** Those are my questions, sir.

8 **THE COMMISSIONER:** Thank you.

9 Mr. Engelmann.

10 **MR. ENGELMANN:** I have nothing arising. I
11 just want to again thank Mr. Thomas for coming and giving
12 his evidence today.

13 **THE COMMISSIONER:** Yes. Thank you very
14 much, sir.

15 **MR. THOMAS:** Thank you.

16 **THE COMMISSIONER:** All right.

17 So I take it that we need a break so that we
18 can distribute material for the next witness, and I'm told
19 that might take a little longer. So why don't we take 30
20 minutes? Would that be enough time? Let me know if you're
21 ready to go before that.

22 **MR. ENGELMANN:** Thank you.

23 **THE COMMISSIONER:** Thank you.

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

1 The hearing will reconvene at 3:30.

2 --- Upon recessing at 2:59 p.m./

3 L'audience est suspendue à 14h59

4 --- Upon resuming at 3:34 p.m./

5 L'audience est reprise à 15h34

6 **THE REGISTRAR:** This hearing of the Cornwall
7 Public Inquiry is now in session. Please be seated.
8 Veuillez vous asseoir.

9 **THE COMMISSIONER:** Mr. Engelmann, good
10 afternoon.

11 **MR. ENGELMANN:** The next witness is the
12 first and only witness for the Diocese of Alexandria-
13 Cornwall, Bishop Paul-André Durocher.

14 If the Bishop could be sworn?

15 **THE REGISTRAR:** Your name, please?

16 **BISHOP DUROCHER:** Paul-André Durocher.

17 **THE REGISTRAR:** Can you spell your last
18 name?

19 **BISHOP DUROCHER:** D-U-R-O-C-H-E-R.

20 **BISHOP PAUL ANDRÉ DUROCHER, Sworn/Assermenté:**

21 --- **EXAMINATION-IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
22 **ENGELMANN:**

23 **MR. ENGELMANN:** Good afternoon, Bishop
24 Durocher.

25 **BISHOP DUROCHER:** Good afternoon.

1 **MR. ENGELMANN:** You should have two volumes
2 of Books of Documents, the Episcopal Corporation of the
3 Diocese of Alexandria-Cornwall, Bishop Paul-André Durocher.
4 Do you have those just to your right, sir?

5 **BISHOP DUROCHER:** I do.

6 **MR. ENGELMANN:** A Volume 1 and a Volume 2?

7 **BISHOP DUROCHER:** I do.

8 **MR. ENGELMANN:** All right.

9 And I would like you just to turn, if you
10 could, to Tab B, and if you could tell me if that is a
11 biography of sorts that sets out a summary of your work
12 experience and your education?

13 **BISHOP DUROCHER:** It is.

14 **MR. ENGELMANN:** All right.

15 And at Tab A I understand there's an outline
16 of evidence that was prepared by your counsel in
17 consultation with yourself?

18 **BISHOP DUROCHER:** That's right.

19 **MR. ENGELMANN:** And we have a number of
20 other tabs and they are all referenced in your outline of
21 evidence.

22 **BISHOP DUROCHER:** That's correct.

23 **MR. ENGELMANN:** Okay. Mr. Commissioner, if
24 the two-volume set could just be the next exhibit, and I
25 think we're at 57?

1 **THE COMMISSIONER:** Are we at 57?

2 **MR. ENGELMANN:** We may be at 58.

3 **THE COMMISSIONER:** Yes, we're at 58 because
4 we had 55, 56 ---

5 **--- EXHIBIT NO./PIÈCE NO. P-58:**

6 BOOK OF DOCUMENTS - Diocese of
7 Alexandria-Cornwall - Bishop Paul-André
8 Durocher, Volume 1, Tabs 1 to 25 and
9 Volume 2, Tabs 26 to 55

10 **MR. ENGELMANN:** All right.

11 So if we could then turn to Tab B of Exhibit
12 58, I would just like you to go through a little bit of
13 your background, sir, before we go into the outline in the
14 corporate policy presentation.

15 You are currently the Bishop of the Diocese
16 of Alexandria-Cornwall; correct?

17 **BISHOP DUROCHER:** Right.

18 **MR. ENGELMANN:** And how long have you been
19 in that position?

20 **BISHOP DUROCHER:** I was named here in 2002.

21 **MR. ENGELMANN:** And I understand that you
22 grew up in Timmins, Ontario?

23 **BISHOP DUROCHER:** I was born in Windsor. We
24 moved to Timmins when I was 10 years old.

25 **MR. ENGELMANN:** Okay. And you spent much of

1 your youth in Timmins; is that correct?

2 BISHOP DUROCHER: That's right.

3 MR. ENGELMANN: And you studied music at the
4 University of Western Ontario?

5 BISHOP DUROCHER: I did.

6 MR. ENGELMANN: And you majored in vocal
7 performance?

8 BISHOP DUROCHER: Correct.

9 MR. ENGELMANN: And I understand you
10 performed in opera and other productions across the
11 province?

12 BISHOP DUROCHER: I did, yes, mostly
13 community orchestras.

14 MR. ENGELMANN: All right.
15 Are you still singing?

16 BISHOP DUROCHER: At mass.

17 MR. ENGELMANN: Okay. And I understand that
18 you completed a Bachelor of Musical Arts in 1977?

19 BISHOP DUROCHER: That's right.

20 MR. ENGELMANN: And that you then went on to
21 enroll in theological studies at St. Paul's University?

22 BISHOP DUROCHER: Correct.

23 MR. ENGELMANN: And that's the university in
24 Ottawa?

25 BISHOP DUROCHER: That's right.

1 **MR. ENGELMANN:** And I understand as well,
2 while studying theology, you also completed a Bachelor of
3 Education degree?

4 **BISHOP DUROCHER:** Right.

5 **MR. ENGELMANN:** That is a degree from the
6 University of Ottawa?

7 **BISHOP DUROCHER:** From the University of
8 Ottawa.

9 **MR. ENGELMANN:** And you completed that
10 degree in approximately 1980?

11 **BISHOP DUROCHER:** Yes. Is the date there?

12 **MR. ENGELMANN:** It must be. Yes, it is.
13 All right.

14 And I understand that you were ordained into
15 the priesthood in 1982?

16 **BISHOP DUROCHER:** That's correct, July 2nd.

17 **MR. ENGELMANN:** And you were incardinated to
18 the Diocese of Timmins?

19 **BISHOP DUROCHER:** Correct.

20 **MR. ENGELMANN:** Can you tell us a little bit
21 about that, the size of the Diocese of Timmins?

22 **BISHOP DUROCHER:** The Diocese of Timmins
23 actually is quite comparable to the Diocese of Alexandria-
24 Cornwall. It's about 30 parishes, extending from Timmins
25 in the northwest corner of the Diocese to the tri-towns,

1 Cobalt, Haileybury and New Liskeard in the southeast end.
2 It's a bilingual diocese, one major city, Timmins, and the
3 rest is rural.

4 **MR. ENGELMANN:** And you were named as a
5 parish priest to a particular parish?

6 **BISHOP DUROCHER:** Not to begin with. I
7 started as an assistant priest and I taught at École
8 secondaire Thériault, which was a French public high
9 school. At the time I taught courses in music and in
10 values clarification. I was -- my first parish as a parish
11 priest was in 1985 when I was named to the Parish of the
12 Holy Cross in Haileybury, Ontario.

13 **MR. ENGELMANN:** So that was within the
14 Diocese of Timmins?

15 **BISHOP DUROCHER:** Yes, that's correct.

16 **MR. ENGELMANN:** And I understand that you
17 completed a Masters of Arts degree in theology at or about
18 that time?

19 **BISHOP DUROCHER:** Yes, I did the school work
20 for the Masters of Arts in Theology in '81 and I completed
21 the thesis during the following summers and defended the
22 thesis in the fall of '84, I believe.

23 **MR. ENGELMANN:** Now, you were the parish
24 priest in Haileybury until about 1990?

25 **BISHOP DUROCHER:** Until 1990, that's

1 correct.

2 **MR. ENGELMANN:** And that was a bilingual
3 parish?

4 **BISHOP DUROCHER:** A bilingual parish, yes.

5 **MR. ENGELMANN:** So you would be serving mass
6 in both languages?

7 **BISHOP DUROCHER:** In both French and in
8 English and working with the community. There was only one
9 parish in the community of Haileybury and it's a very
10 bilingual parish, that community.

11 **MR. ENGELMANN:** Okay. I understand as well
12 during that period of time you did some work for the
13 Diocese of Timmins?

14 **BISHOP DUROCHER:** Small dioceses like the
15 Diocese of Timmins often ask parish priests to take on
16 diocesan responsibilities at the same time. So I was
17 involved in youth ministry, coordinating youth ministry for
18 the Diocese and also what was called the Office of Liturgy,
19 which was more of a committee working in formation around
20 issues in liturgy in the Diocese.

21 **MR. ENGELMANN:** I note as well that you were
22 working for the Ontario Bishop's Office of French Language
23 Faith Education.

24 **BISHOP DUROCHER:** Because of my background
25 in education and also in theology, I was tapped to be part

1 of various teams for this office, l'OPECO it's called,
2 which is an office that the francophone -- that the bishops
3 of Ontario have established to foster French language
4 religious education, and so I was part of riding teams for
5 OPECO.

6 **MR. ENGELMANN:** Okay. Is that something
7 under the umbrella of the Ontario Conference or College of
8 Bishops?

9 **BISHOP DUROCHER:** Under the Ontario
10 Conference of Catholic Bishops, yes, that's right.

11 **MR. ENGELMANN:** And as well, during that
12 time, you continued to teach?

13 **BISHOP DUROCHER:** No, I had stopped teaching
14 by then, except at one point I took on a semester of
15 teaching in music at the local high school.

16 **MR. ENGELMANN:** You were developing programs
17 for religious education?

18 **BISHOP DUROCHER:** Yes. I was teaching
19 university level courses at that time, sorry, for
20 Laurentian University and for St. Paul's University.
21 During my years as a priest in the Diocese of Timmins, I
22 taught a number of extension courses, off-campus courses in
23 religious education or in theology.

24 **MR. ENGELMANN:** Now, in 1990 you had a
25 change. You were assigned to the coordinating staff of the

1 Diocese of Timmins and named Episcopal Vicar for pastoral
2 activities. Can you tell us what that means?

3 **BISHOP DUROCHER:** An Episcopal vicar in a
4 diocese is a priest who is assigned certain powers that
5 typically belong to the Bishop but are delegated to the
6 Episcopal vicar. So I was delegated the powers that have
7 to do with permissions surrounding the celebration of
8 various sacraments in the Diocese and I was also
9 coordinating the chancery -- the work of the Chancery
10 Office at the Diocese, which is the office that takes care
11 of records and of decrees and of legal issues within church
12 law.

13 **MR. ENGELMANN:** Your biography also mentions
14 that you were administering parishes in the Timmins area.
15 What is meant by that?

16 **BISHOP DUROCHER:** When a bishop does not
17 have sufficient priests to name parish priests to all
18 parishes, he sometimes names a priest as an administrator
19 of the parish which basically is meant to be a stop tap
20 measure as you're waiting for a more permanent solution.
21 So you're replacing. You take on the responsibility of the
22 parish priest to a certain extent. So there were a number
23 of parishes during those years that I worked at the
24 diocesan centre. I was coordinator of a parish in Kirkland
25 Lake -- administrator of a parish in Kirkland Lake for a

1 year, for two years in Ramore and Holtyre, Ontario and for
2 a year at an English language parish in Timmins.

3 **MR. ENGELMANN:** So it's like a temporary
4 ministry?

5 **BISHOP DUROCHER:** It's meant to be a
6 temporary spot. I was basically kind of helping out in
7 situations which -- where there was, for example, a priest
8 went away to study for a year. So I administered the
9 parish for a year while he was away. When he came back, he
10 resumed the position of parish priest.

11 **MR. ENGELMANN:** All right.

12 I note at the bottom of the page on -- your
13 first page in Tab B there's a reference to studies in
14 France, studies in Canon Law.

15 **BISHOP DUROCHER:** The studies were more in
16 Canada than in France. It was a correspondence course. So
17 I did most ---

18 **MR. ENGELMANN:** Okay.

19 **BISHOP DUROCHER:** Most of my work was done
20 either in Montreal or in Ottawa in the important
21 theological libraries that can be found there, though I did
22 go to Strasbourg a few times for certain courses and exams.
23 The civil Licentiate in Canon Law is a one-year program in
24 Canon Law. It's considered an introduction to Canon Law.

25 **MR. ENGELMANN:** If one wants to go on in

1 Canon Law, what does one do after that?

2 **BISHOP DUROCHER:** Then one would take up the
3 licentiate which is another extra two years. When in the
4 Catholic Church we speak of a Canon Lawyer, we're speaking
5 of somebody who has a licentiate. And then if you wanted
6 to go further, for example if you wanted to teach in the
7 area, then you would complete a Doctorate in Canon Law.

8 **MR. ENGELMANN:** But with your one-year
9 program you obviously have some knowledge of Canon Law?

10 **BISHOP DUROCHER:** That's right, basic
11 overall and general knowledge of the structure and history
12 of Canon Law.

13 **MR. ENGELMANN:** Can you just tell us very
14 briefly what Canon Law is?

15 **BISHOP DUROCHER:** Canon Law is the body of
16 law that was developed in the Catholic Church since the
17 existence of the church actually. It was -- basically,
18 over the centuries, decrees were established either by
19 popes or by general councils or what we call ecumenical
20 councils establishing rules, regulations, structures around
21 different issues. These various decrees were compiled into
22 corpuses during the middle ages. These various corpuses
23 formed what was eventually called by the mid-sixteenth
24 century the *Codex Juris Canonici*, the Codex of Canon Laws.
25 A Canon is a law specifically.

1 **MR. ENGELMANN:** Yes.

2 **BISHOP DUROCHER:** In the early twentieth
3 century, as many countries in Europe were moving towards a
4 codification of their own laws, then the Roman Catholic
5 Church followed suit and so in 1917 was the first
6 codification of the Canon Law which is called the Code of
7 Canon Law. We often call it the Pio-Benedictine Code
8 because it was established under the reigns of Pius X and
9 Benedict XV and then it was reviewed and renewed after the
10 Second Vatican Council which was held from '62 to '65 and
11 promulgated in 1983 under Pope John Paul II. So since '83
12 we are working under what we call the New Code of Canon
13 Law.

14 There's also a parallel Code of Canon Law
15 for the eastern churches that are in union with the Roman
16 Church. So what we call eastern Catholic churches have
17 their own code, Corpus of Canon Laws of the Eastern
18 Churches.

19 **MR. ENGELMANN:** And approximately how many
20 Canon Laws would there be?

21 **BISHOP DUROCHER:** That's a good question;
22 about 1,300 I believe -- no, that's more than that, excuse
23 me. I have a copy of it with me here and 1,500
24 approximately.

25 **MR. ENGELMANN:** All right.

1 that you've been teaching religious studies and I think you
2 mentioned this at a couple of universities here in Ontario.

3 **BISHOP DUROCHER:** Yes, off campus courses
4 mostly, though I did teach summer courses at St. Paul
5 University.

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

7 Now, in 1997, you became a Bishop. Is that
8 correct?

9 **BISHOP DUROCHER:** That's correct.

10 **MR. ENGELMANN:** And I assume that that's a
11 form of promotion, if there is such a thing. Can you just
12 tell us how that happened and where you were first
13 installed as a bishop?

14 **BISHOP DUROCHER:** Very quickly, here in
15 Canada, the Pope has a representative known as the papal
16 nuncio who is also the Ambassador of the Holy See to the
17 Canadian government. One of the functions of the papal
18 nuncio is to prepare lists of candidates when there is a
19 need for a new bishop to be named. That list is a list of
20 three names that we call a "terna". Through secret
21 consultation with other priests, lay people, other bishops,
22 the nuncio builds a -- compiles a dossier on each of the
23 three candidates, forwards it to Rome with his comments.
24 In Rome, there is a group called -- an office called the
25 Congregation for Bishops that then studies the dossiers and

1 eventually the cardinal who is responsible for that
2 congregation sits down with the Pope with the dossiers and
3 the recommendations and the Pope makes the final decision
4 on who is to be named as bishop to a particular post.

5 **MR. ENGELMANN:** Okay.

6 **BISHOP DUROCHER:** And then the Pope calls --
7 well, through the offices, the nuncio is advised and the
8 nuncio then calls the candidate. So one day I got a call
9 from the nuncio asking me to come to his office. He wanted
10 to speak with me and there he told me that I had been named
11 as the Auxiliary Bishop or the Assistant Bishop in the
12 Diocese of Sault-Ste-Marie and I was asked if I accepted
13 the nomination or not.

14 **MR. ENGELMANN:** All right.

15 And you obviously did?

16 **BISHOP DUROCHER:** I obviously did, yes.

17 **MR. ENGELMANN:** Yes. So can you tell us the
18 Diocese of Sault-Ste-Marie ---

19 **BISHOP DUROCHER:** Yes.

20 **MR. ENGELMANN:** You worked obviously here at
21 the Diocese of Timmins. How does it compare?

22 **BISHOP DUROCHER:** The Diocese of Sault-Ste-
23 Marie is a very different diocese. It's much larger. It
24 spreads over close to a thousand kilometres. It comprises
25 the major cities of Sault-Ste-Marie, Sudbury and North Bay.

1 For many years actually, though it was called the Diocese
2 of Sault-Ste-Marie, it was administered from North Bay and
3 it comprises of, from memory, about 120 parishes, French,
4 English and a fair section of native parishes, Ojibway
5 parishes, Manitoulin Island and along the north shore of
6 Lake Huron.

7 **MR. ENGELMANN:** Okay. And you said you were
8 appointed or named as an Auxiliary Bishop. What is the
9 distinction between an auxiliary bishop and bishop?

10 **BISHOP DUROCHER:** A bishop is a bishop is a
11 bishop, but once you're named a bishop, you can be given
12 different jobs you could say. You could be named, for
13 example, to an office of the Curia in Rome. So you would
14 not be bishop of a diocese. You would be a bishop but
15 without a diocese. You can be named as an assistant to a
16 bishop in a diocese which is what we call an auxiliary
17 bishop. So I was named the auxiliary to Bishop Jean-Louis
18 Plouffe who was the Bishop of the Diocese of Sault-Ste-
19 Marie. My particular responsibility there was for the
20 French language parishes and eventually the native parishes
21 of the diocese.

22 **MR. ENGELMANN:** All right. And I understand
23 that you continued in that role as the Auxiliary Bishop for
24 the Diocese of Sault-Ste-Marie until your appointment here
25 in Cornwall.

1 **BISHOP DUROCHER:** That's correct.

2 **MR. ENGELMANN:** And when you were appointed
3 in Cornwall, it was as the Bishop.

4 **BISHOP DUROCHER:** As the Diocesan Bishop.
5 Then the title becomes diocesan bishop.

6 **MR. ENGELMANN:** Diocesan bishop. There is
7 no auxiliary bishop.

8 **BISHOP DUROCHER:** There is no auxiliary
9 bishop in the Diocese of Alexandria-Cornwall, though there
10 was one at one point. Under the old Code, bishops did not
11 retire and so sometimes when bishops became elderly, they
12 were assigned an auxiliary bishop. In the new Code,
13 bishops must hand in their resignation at the age of 75.

14 **MR. ENGELMANN:** It also states in your
15 biography that you're an active member of both the Ontario
16 Conference of Catholic Bishops and the Canadian Conference
17 of Catholic Bishops and I understand that you've held a
18 number of different positions or taken on a number of tasks
19 for those conferences.

20 **BISHOP DUROCHER:** That's correct. Both
21 those associations of bishops establish standing committees
22 or ad hoc committees. I've worked for the provincial
23 association, the Ontario Conference of Catholic Bishops.
24 I've been on their Liturgy Committee but mostly on their
25 Education Commission. I'm presently the Chair of that

1 Commission which is involved very much with the content of
2 courses in religious education that are taught in our
3 Catholic schools across Ontario, both in French and in
4 English. I could say that would be the great concern of
5 that Committee and it's great work.

6 And for the CCCB at the national level, I've
7 worked on their Liturgy Commission in the French sector.
8 I'm presently a member of that Commission. I was also at
9 one point Chair of their Theology Commission. And for the
10 CCCB, I was also elected as one of the four delegates to
11 the International Synod of Bishops which is held every
12 three years. So I was delegated to the synod in 2005; 250
13 bishops come from across the world to study a particular
14 issue and make recommendations to the Pope. So I was
15 delegated by the CCCB to that and I'm also presently their
16 delegate on the Organizing Committee of an International
17 Eucharistic Congress which will be held in 2008 in Quebec
18 City to mark the 400th anniversary of the founding of Quebec
19 as a city and where we are hoping to receive the Pope as a
20 guest of honour at the end.

21 **MR. ENGELMANN:** Okay. Bishop Durocher, I
22 understand you also do retreats for priests and ---

23 **BISHOP DUROCHER:** Yes.

24 **MR. ENGELMANN:** --- you have also directed
25 some workshops. Can you give us some examples of some of

1 the issues or topics that you might be teaching or training
2 priests?

3 **BISHOP DUROCHER:** I've been giving retreats
4 to priests on the theme of the identity of the priest in
5 today's church. That's been a topic that I've developed
6 over the past few years and typically I accept to preach to
7 two priests' retreat a year. It's part of the discipline
8 of a priest's life that they take a week off a year for a
9 retreat which is usually preached by someone and so I've
10 basically crossed Canada giving these retreats to priests
11 of various dioceses.

12 I've also given workshops on leadership,
13 notions of leadership and leadership skills for priests in
14 various dioceses.

15 **MR. ENGELMANN:** And some of that teaching
16 you've done just very recently this summer at Ste-Anne-de-
17 Beaupré.

18 **BISHOP DUROCHER:** Well, no. At Ste-Anne-de-
19 Beaupré I was involved with leading actually a -- it was a
20 popular retreat. So it was opened to anybody who wanted to
21 come. So there were thousands of people present at that.

22 **MR. ENGELMANN:** I understand lastly that
23 you're composing some music. Am I correct there?

24 **BISHOP DUROCHER:** Yes, I continue to, as I
25 say, dabble in music. I was honoured to work on some of

1 the music for the Pope's visit for the World Youth Days in
2 Toronto in 2002 and I continue to write occasional
3 liturgical music.

4 **MR. ENGELMANN:** All right.

5 And in your role as Diocesan Bishop here in
6 the Diocese of Alexandria-Cornwall, can you briefly
7 describe for us some of your responsibilities? You've
8 talked about leadership and I'm curious if you can just
9 develop that a bit for us.

10 **BISHOP DUROCHER:** Traditionally in the
11 Catholic Church, we identify three major areas of concern
12 for a bishop. The first area would be evangelisation and
13 faith education which involves obviously preaching and
14 teaching but also being ensured that there is good
15 preaching and teaching being done throughout the Diocese.

16 The second area is liturgy, the celebration
17 of the sacraments; so, again, leading the celebration of
18 sacraments. In the Catholic Church, the ordinary minister
19 of the sacrament of confirmation for example is the bishop.
20 So I preside at all the confirmations that are celebrated
21 in the Diocese. Typically during the month of April and
22 May, I will confirm close to 1,000 children in various
23 celebrations.

24 The third area of responsibility is
25 leadership, organization I could say, and in that sense

1 there would be -- you could divide that into two areas.
2 One area would be the financial administration of the
3 Diocese, for which I am responsible and, secondly, the
4 organization of the life of the Diocese, particularly the
5 life of the 30 parishes that make up this Diocese, the
6 appointment of priests, of deacons, of other staff, support
7 staff, the setting up of various commissions and committees
8 to coordinate church life in the Diocese.

9 **MR. ENGELMANN:** Do you also have a role with
10 community stakeholders, individuals from other institutions
11 or committees here in the Cornwall area?

12 **BISHOP DUROCHER:** In the sense do I
13 participate with other stakeholders in the community area
14 in various projects or undertakings? I can give one
15 example. I've been involved over the past few months with
16 discussions at the Mayor's office in view of setting up a
17 social planning council for the area. So in that sense
18 that's one issue where I was invited as Bishop of the
19 Diocese to sit with other social service agencies, economic
20 development, et cetera, to try to move forward on that
21 agenda.

22 I accidentally got involved with the Social
23 Planning Council in Sudbury, for example, when I was living
24 there, and that expertise is being used right now to try to
25 set this up here in Cornwall.

1 **MR. ENGELMANN:** Sir, if we could -- what I'd
2 like to do then is turn to Tab A of your book. The outline
3 of evidence starts with background history and
4 organizational structure, and much of -- many of the points
5 that are listed appear to be references from Tab 1. And as
6 I understand Tab 1 it is a document prepared by Francis
7 Morrisey.

8 **BISHOP DUROCHER:** Correct.

9 **MR. ENGELMANN:** And I believe it's actually
10 already an exhibit in these proceedings perhaps as part of
11 the funding application ---

12 **BISHOP DUROCHER:** That's correct, for stand
13 ---

14 **MR. ENGELMANN:** --- that was made by the
15 Diocese.

16 **BISHOP DUROCHER:** That's correct.

17 **MR. ENGELMANN:** You know Francis Morrisey?

18 **BISHOP DUROCHER:** Personally, yes. He was
19 one of my teachers.

20 **MR. ENGELMANN:** All right.

21 And we have a little bit about his
22 background on the first page and a half. Is that fair?

23 **BISHOP DUROCHER:** Yes.

24 **MR. ENGELMANN:** And he's then giving a
25 report on various issues involving the internal workings of

1 the Roman Catholic Church.

2 From your knowledge of him and your
3 knowledge of his background, is he well placed to do that?

4 **BISHOP DUROCHER:** He's one of the best
5 placed canon lawyers in the world to be able to do this
6 kind of work.

7 **MR. ENGELMANN:** Can you just describe for us
8 very briefly his background as you know it?

9 **BISHOP DUROCHER:** Perhaps just highlight
10 from the document, the third full paragraph, the 11
11 academic degrees that he holds in various areas, canon law,
12 philosophy, theology and religious education, the fact that
13 he was dean of the faculty. The bottom of that page, from
14 '67 to '94 the editor of Studia Canonica, which is one of
15 the top journals of canon law in the world, the author of
16 some 300 articles and translations. At the top of the next
17 page, page 2, from '85 to 2000 served three five-year terms
18 as a consultant to the Pontifical Commission for the
19 Authentic Interpretation of the Code of Canon Law. That
20 Commission in Rome is basically the Pope's office dealing
21 with issues of interpretation of canon law. So he served
22 on that for three terms. He was dean of the faculty of
23 canon law at St. Paul University. If I'm not mistaken,
24 there are only two facilities in North America where one
25 can do a doctorate in canon law, St. Paul's and Catholic

1 University of Washington. So Father Morrisey was dean of
2 St. Paul's. And the fact that he's been an expert witness
3 a number of times for various legal proceedings.

4 **MR. ENGELMANN:** I note that he has a Ph.D in
5 canon law and a J.C.D. Are those different degrees?

6 **BISHOP DUROCHER:** One would be a civil
7 degree and the other one would be an ecclesiastical degree.
8 Typically, students who study at St. Paul's University,
9 because it is a Catholic university federated within the
10 University of Ottawa, are accorded both a civil degree from
11 the University of Ottawa and a canonical degree through St.
12 Paul, which has a charter as a pontifical university also.

13 **MR. ENGELMANN:** All right.

14 I just had a few questions then on the
15 background history for clarification.

16 You mention at the third bullet the Pope's
17 administration of the Church is carried out through the
18 Roman Curia. What is that, sir?

19 **BISHOP DUROCHER:** Could you tell me where
20 you are, please?

21 **MR. ENGELMANN:** Sorry. I'm on page ---

22 **BISHOP DUROCHER:** Oh, you're on the --
23 sorry.

24 **MR. ENGELMANN:** The outline.

25 **BISHOP DUROCHER:** Of the outline. Sorry.

1 The Curia is the equivalent to what in
2 Canada would be, for example, the social service, la
3 fonction publique, sorry. Is that the right word?

4 **MR. ENGELMANN:** The public service.

5 **BISHOP DUROCHER:** Public service. Sorry.
6 Public service.

7 So it's divided into various equivalent of
8 ministries which are called dicastries. There are -- some
9 dicastries that are known as congregations. Other
10 dicastries are known as councils. Other dicastries are
11 tribunals. The leadership of those various dicastries with
12 their staff make up what is known as the Curia.

13 **MR. ENGELMANN:** Okay. Then at the sixth
14 point on the page you refer to something as the
15 Congregation of the Doctrine of the Faith, and I tried to
16 find a reference to that. I don't think that cite is
17 right. It says Tab 1, page 4. I didn't find it there.

18 In any event, could you tell us what that
19 is? Because you say that it administers religious policy
20 and doctrine as well as the formal judicial process which
21 involves suspension or reduction to lay status of a priest.

22 **BISHOP DUROCHER:** The Pope determines what
23 each dicastery will be responsible for. One of these
24 dicastries, which is called the Congregation for the
25 Doctrine of the Faith, is mostly known for its work in

1 ensuring the integrity of the teaching of the faith by
2 theologians across the world.

3 Our present Pope Benedict XVI was the --
4 Cardinal Joseph Radsinger was prefect or what we would call
5 president of that congregation for many years.

6 **MR. ENGELMANN:** Okay.

7 **BISHOP DUROCHER:** But this congregation also
8 has as its task any procedure involved in dismissing a
9 priest from the status of priest, from the priesthood, as a
10 result of a serious offence.

11 There are a number of offences that have
12 been determined that if a priest commits those offences
13 those cases must be adjudicated -- must be referred to the
14 Congregation for the Doctrine of the Faith, which will then
15 determine how the case is to be adjudicated.

16 **MR. ENGELMANN:** All right.

17 So just so I'm clear, the Congregation of
18 the Doctrine of the Faith, that would be a body of the
19 Church in Rome?

20 **BISHOP DUROCHER:** I mean, the people who
21 work for the Congregation of the Doctrine of the Faith
22 nearly all live in Rome and work at the Vatican, yes.

23 **MR. ENGELMANN:** All right.

24 So if there is some form of serious offence
25 they actually will hear a trial and make determinations

1 after that as to whether or not to reduce someone to lay
2 status?

3 **BISHOP DUROCHER:** Not necessarily. The case
4 must be referred to them by the diocesan Bishop. They will
5 determine how to proceed. In most cases what they will do
6 is they will direct the diocesan Bishop to proceed with the
7 adjudication of the case and they will determine if there
8 are any special rules that need to be followed in
9 adjudicating the case. Some cases they choose to reserve
10 to themselves.

11 **MR. ENGELMANN:** All right.

12 So the normal case would be that the
13 Congregation of the Doctrine of the Faith would ask you or
14 someone in a similar position as the diocesan Bishop to
15 deal with, I don't know if it's a trial or hearing, to
16 determine whether or not a priest should be reduced to some
17 form of lay status?

18 **BISHOP DUROCHER:** That's right. Overall,
19 yes, that's correct.

20 **MR. ENGELMANN:** All right.

21 You refer at the bottom of the page to
22 ecclesiastical provinces, right at the bottom.

23 **BISHOP DUROCHER:** Yes.

24 **MR. ENGELMANN:** Can you ---

25 **BISHOP DUROCHER:** What is that?

1 **MR. ENGELMANN:** Yes. Is that a region of
2 the world?

3 **BISHOP DUROCHER:** No. An ecclesiastical
4 province is basically a group of dioceses -- I guess the
5 next thing to do is to give you a concrete example. The
6 Diocese of Alexandria-Cornwall belongs to the
7 ecclesiastical province of Kingston. So there are four
8 dioceses in that ecclesiastical province: Alexandria-
9 Cornwall; Kingston; Peterborough and Sault Ste Marie.
10 Those four dioceses form the ecclesiastical province.

11 In each ecclesiastical province there is one
12 diocese which is recognized as the first diocese, so the
13 archdiocese, and the bishop of that diocese is an
14 archbishop. But it's a structure that is -- how can I say
15 -- it's a relic from the middle ages. In the middle ages
16 metropolitans, the archbishop had great power over the
17 dioceses that were under -- in the ecclesiastical province.
18 That is no longer true. In canon law now the only thing
19 that an archbishop can do, he's called to bring the bishops
20 of his ecclesiastical province together once every second
21 year to dress up a list of possible candidates, of priests
22 to be considered to become bishops down the road to make
23 that list.

24 The other thing is that if the archbishop
25 becomes aware of the serious mismanagement of a diocese in

1 his ecclesiastical province he is to advise the Pope about
2 it, but he has no power or jurisdiction to interfere or to
3 intervene into the situation.

4 **MR. ENGELMANN:** So in the province that the
5 Diocese of Alexandria-Cornwall is in, there is an
6 archbishop?

7 **BISHOP DUROCHER:** Yes, that would be
8 Archbishop Mar. The archbishop of Kingston would be our
9 archbishop.

10 In Ontario there are three ecclesiastical
11 provinces: Toronto, Kingston and Ottawa.

12 **MR. ENGELMANN:** But as you point out on the
13 second page then, the third point, that archbishop would
14 have no direct authority over you ---

15 **BISHOP DUROCHER:** That's correct.

16 **MR. ENGELMANN:** --- as the Bishop here in
17 Cornwall?

18 **BISHOP DUROCHER:** That's correct. The
19 Suffragan Diocese are the other dioceses. There's the
20 archdiocese and then the other dioceses are called
21 Suffragan Dioceses. The archbishop has no direct authority
22 over a Suffragan Diocese.

23 **MR. ENGELMANN:** All right.

24 So then let's take a look at the next
25 portion of your outline, and that's headed with the term

1 "Religious Orders". I just want to start with -- you talk
2 about diocesan bishops being assisted by both priests and
3 deacons within a diocese.

4 Can you tell us what the distinction is
5 between a priest and a deacon?

6 **BISHOP DUROCHER:** In the church, in the
7 Catholic Church we -- actually the Orthodox Church has the
8 same distinction. There are three orders: the Order of
9 Deacons, the Order of Priests and the Order of Bishops.

10 Perhaps the easiest way of describing the
11 differences in terms of what they are empowered to do in
12 presiding sacraments, deacons can baptize. They can also
13 preside at marriages. They can preside at funerals without
14 a mass. They can proclaim the gospel and preach during
15 mass.

16 Priests, on top of those sacraments, can
17 also preside at mass, the anointing of the sick, and
18 confession. They can confirm if they are delegated to do
19 so by the bishop.

20 Bishops then can do everything deacons and
21 priests can do, and on top of that then also they are the
22 ordinary ministers of confirmation and they are the
23 ministers of ordination.

24 So one way of understanding the difference
25 between deacons, priests and bishops is by looking at that

1 distinction.

2 In the Catholic Church permanent deacons --
3 up until 1967 in the recent history of the Church,
4 deaconate was only a step towards priesthood. In 1967
5 there was a restoration of what we call the permanent
6 deaconate, which had disappeared around the fifth century.

7 So now we have a relatively new figure, you
8 could say, within the Catholic Church. Men -- and one of
9 the distinctions in the Roman Catholic Church is that
10 deacons can be married men. Married men can be ordained
11 deacons, whereas married men cannot be ordained priests or
12 bishops obviously. So deacons then are often married men,
13 more mature, who are ordained to assist in the life of the
14 church. They are not remunerated. It is a volunteer
15 position within the church, as opposed to priests who are
16 obviously committed and salaried within the Diocese.

17 **MR. ENGELMANN:** They are all men?

18 **BISHOP DUROCHER:** All men, yes.

19 **THE COMMISSIONER:** So is a deacon in French
20 un diacre?

21 **BISHOP DUROCHER:** Une diacre.

22 **THE COMMISSIONER:** All right.

23 And what's a sous-diacre?

24 **BISHOP DUROCHER:** A sub-deacon?

25 **THE COMMISSIONER:** Yes.

1 **BISHOP DUROCHER:** A sub-deacon was an order,
2 a preparatory order that existed up until 1967 when the
3 Sacrament of Ordination was reorganized around the end of
4 the '60s because of the Second Vatican Council and so the
5 Order of Subdeacons disappeared.

6 **MR. ENGELMANN:** So only a bishop can ordain
7 a priest and/or a deacon?

8 **BISHOP DUROCHER:** Correct.

9 **MR. ENGELMANN:** And it mentions in your
10 outline a promise of obedience that deacons and priests
11 must make to the bishop, the diocesan bishop. What is that
12 promise of obedience? What does that mean?

13 **BISHOP DUROCHER:** Basically, a promise of
14 obedience means that you are committing yourself to serve
15 the diocese under the leadership of the bishop and so you
16 will accept from the bishop the mandates that the bishop
17 gives you when the bishop asks you to serve in a certain
18 capacity or to accept a certain responsibility and to do it
19 with the mind of the bishop so that you -- by the promise
20 of obedience, you are basically saying you are going to be
21 a team player with whoever the bishop is of the diocese.

22 **MR. ENGELMANN:** I mean, I don't know if it's
23 a poor analogy, but I mean in the military, one has to
24 follow orders of superiors. Is it anything similar to
25 that?

1 BISHOP DUROCHER: No.

2 (LAUGHTER/RIRES)

3 MR. ENGELMANN: Well, maybe we'll leave it
4 there.

5 But in any event ---

6 BISHOP DUROCHER: If I can give an example,
7 that notion of the promise of obedience was in the past
8 must stricter than it is today in the sense that today a
9 bishop will do a lot of consulting with a priest or a
10 deacon before assigning him a certain task. In the past,
11 that could be used very ruthlessly, but that is no longer
12 the case.

13 It really is a commitment to working with
14 the bishop for the good of the diocese and church to which
15 you commit because priests and deacons are what we call in
16 the Catholic Church "incardinated in a diocese". When you
17 are incardinated in a diocese, it basically commits you to
18 serving this particular diocese and church for the rest of
19 your life.

20 As a general rule, when you are incardinated
21 in a diocese, you know you will not be moving anywhere
22 else.

23 MR. ENGELMANN: I was going to ask you that.
24 Could you actually be incardinated in more than one
25 diocese?

1 **BISHOP DUROCHER:** No.

2 **MR. ENGELMANN:** It's only one at a time?

3 **BISHOP DUROCHER:** You can only be
4 incardinated in one diocese and to move from one diocese to
5 another, to be excardinated from one diocese and
6 incardinated into a new diocese, is a process that happens,
7 but it is a very serious one and is not frequent.

8 **MR. ENGELMANN:** You, yourself, have moved
9 though between dioceses.

10 **BISHOP DUROCHER:** The notion of
11 incardination applies to priests and deacons; the promise
12 is made to the bishop. When I was made a bishop, I was
13 relieved from the promise of obedience that I had made to
14 my bishop when I was ordained and I was relieved from
15 incardination in the diocese to which I belonged.

16 **MR. ENGELMANN:** So if you had remained a
17 priest, it would have been likely you would have stayed
18 within the Diocese of Timmins. Is that what you are
19 saying?

20 **BISHOP DUROCHER:** Absolutely.

21 **MR. ENGELMANN:** Now you talk further in the
22 outline about "monasteries and diocesan bishops". Can you
23 just explain that distinction for us briefly?

24 **BISHOP DUROCHER:** In this outline, because
25 I'm the one who wrote this up, I was trying to explain how

1 religious orders came to be in the Roman Catholic Church.
2 Monasteries were places where typically laymen would gather
3 to lead a deeply spiritual life in sharing of goods, so a
4 common life, common property, in a commitment to celibacy
5 and also in obedience to the superior of the monastery who
6 would be either an Abbott or a Prior, depending. That's a
7 canonical distinction, but basically entering into a
8 monastery meant committing your whole life to this kind of
9 life in the monastery.

10 Monasteries during the Middle Age gained
11 significant autonomy from dioceses and bishops. They
12 formed associations of monasteries and these associations
13 were put under the direct authority of the Pope, so that
14 what happened was that you had monasteries where a bishop
15 would not be allowed to enter and go check what was going
16 on. The authority for that monastery was the Abbott or the
17 Prior of the monastery. And it is from those monasteries
18 that religious orders evolved.

19 Religious orders are groups of laymen or of
20 priests who belong to an order that is not necessarily
21 based in a special place like a monastery, like monks are.
22 Monks are assigned to a place of life, but these would be
23 more like wandering monks. The first ones would have been
24 the Disciples of St. Francis of Assisi, for example, the
25 Franciscans; the Disciples of St. Dominic, the Dominicans;

1 the Disciples of St. Ignatius of Loyola, the Jesuits.
2 These religious orders -- and many of them are orders of
3 priests and brothers; some of them are orders only of
4 priests; some are orders only of brothers.

5 Many of these religious orders have a great
6 deal of autonomy vis-à-vis the diocese and bishop in their
7 functioning because they take vows of poverty, chastity and
8 obedience, but their vows of obedience is not to the
9 diocese and bishop but to the superior of their religious
10 order.

11 **MR. ENGELMANN:** What if they're located
12 within the geographic area of a diocese?

13 **BISHOP DUROCHER:** Well typically -- well,
14 not only typically, they all have to be ---

15 **MR. ENGELMANN:** Yes.

16 **BISHOP DUROCHER:** --- located within an area
17 of a diocese because the whole world is divided into
18 dioceses. So then there is a kind of a double faithfulness
19 as a resident within the diocese. You are submitted to the
20 authority of the bishop, but in your ministry as a priest
21 or a member of your order, you are relating to your
22 superior.

23 Now, for exercising ministry within the
24 diocese, they would need to have the bishop's permission,
25 what we would call "giving faculties" to the priests who

1 are not from the diocese who are living in the diocese.

2 **MR. ENGELMANN:** So you've listed a number of
3 religious orders in a penultimate bullet on this page. I
4 am curious. Are there religious orders here in the Diocese
5 of Alexandria-Cornwall?

6 **BISHOP DUROCHER:** Presently, we have one
7 priest of a religious order that is from Nigeria called the
8 Sons of Mary, Mother of Missionaries. He is assigned as a
9 parish priest here.

10 **MR. ENGELMANN:** So if someone is from a
11 religious order but assigned as a parish priest, they would
12 have reporting relationship with the diocesan bishop?

13 **BISHOP DUROCHER:** As parish priest, correct.
14 So that what I've done is I've contracted with this
15 religious order to have one of their members working in the
16 diocese as a parish priest.

17 **MR. ENGELMANN:** All right.

18 **BISHOP DUROCHER:** On the other hand, for
19 example, there is another religious order, the Legionaries
20 of Christ, who do not exercise such ministry in the
21 diocese. They have a noviciate that they run here. It's
22 in Summerstown, outside of Cornwall, east of Cornwall.
23 Their noviciate is an internal school of formation for
24 their own candidates. They have chosen to locate here
25 because they -- a building was made available and they

1 wanted to get closer to the French-speaking world, and so
2 they have established themselves here.

3 They function independently from me.
4 Although they invite me to go over, I have no jurisdiction
5 over them, except inasmuch as they are residents of the
6 diocese, but they do not have a mandate to exercise
7 ministry within the diocese. Except for this that I --
8 that the priests who reside there, I give them faculties to
9 -- what we call the general faculties to celebrate mass and
10 to hear confession because sometimes on a weekend, let's
11 say a priest has to be away -- a parish priest of our
12 Diocese has to be away -- we will sometimes call one of
13 those religious order priests and ask if he could replace
14 for the weekend.

15 **MR. ENGELMANN:** All right.

16 **BISHOP DUROCHER:** So in order to be able to
17 do that ministry, I give that permission.

18 **MR. ENGELMANN:** And I am looking on the
19 third page of your outline, the second bullet talks about
20 that,

21 "In some case" -- I guess it is cases
22 -- "the consent of a Diocesan Bishop is
23 required for a religious order to carry
24 on activities within the Diocese".

25 Give us an example of what you mean by that.

1 **BISHOP DUROCHER:** Well, I don't have to give
2 consent for example to the Legionaries of Christ. I don't
3 have any consent to give on the way they function
4 organizing their school for their novices. Okay. But if
5 they were to be involved in the diocese, for example, they
6 have a movement of lay people called "Regnum Christi" in
7 which a few lay people of our Diocese are involved. For
8 them to go ahead and organize that movement in the Diocese,
9 then they need my permission.

10 **MR. ENGELMANN:** Okay. You have a chart on
11 that page. I won't call it an org chart, but perhaps you
12 can just take us through that. I assume you were going
13 vertically?

14 **BISHOP DUROCHER:** Yes, in order to -- it's
15 just a little chart to show the difference between diocesan
16 priests on the left-hand side and religious order priests
17 or nuns or brothers on the right-hand side.

18 They are accountable to -- the diocesan
19 priests on the left is accountable to the diocesan bishop.
20 His place of assignment will be typically within the
21 diocese, as we said. And his usual ministry will be as a
22 parish priest or any diocesan task assigned by the bishop,
23 whereas religious order priests are accountable to their
24 elected superior. Their place of assignment will be
25 wherever the order is active in the world. So, for

1 example, the Legionaries are active in Europe, in South
2 America, in Canada, in United States. So wherever they --
3 a member can be assigned anywhere that religious order is
4 active in the world.

5 And finally their usual ministry will be
6 related to the identity of the religious order. Some
7 religious orders specialize in education; others, for
8 example, evangelization; others in mission work; some in
9 hospital work. They usually have a special area of
10 ministry that they dedicate themselves to.

11 So it is just a little chart to help
12 understand the difference between a diocesan priest and a
13 religious order priest.

14 **MR. ENGELMANN:** All right. The next part of
15 your outline deals with diocesan structure, and it seems to
16 refer in many instances to Tab 2.

17 Is this another report from Reverend
18 Morrisey?

19 **BISHOP DUROCHER:** No, no. This is something
20 I prepared.

21 **MR. ENGELMANN:** Okay, I may have the wrong
22 document. I apologize.

23 Tab 2, page 2. I just want to make sure I'm
24 on -- that I was looking at a letter from Francis Morrisey
25 from March 22nd, 2007. I may be on the wrong tab, sir.

1 **BISHOP DUROCHER:** Oh, I'm sorry. I'm sorry,
2 I have two Tab 2s.

3 **MR. ENGELMANN:** There's two Tab 2s. Yes.
4 I apologize. The first one.

5 **BISHOP DUROCHER:** Very good.

6 **MR. ENGELMANN:** Okay. When we have the
7 references on page 3 of your outline to the diocesan
8 structure, and it says "Tab 2, page 2", are those
9 references to Reverend Morrisey's report?

10 **BISHOP DUROCHER:** That's correct.

11 **MR. ENGELMANN:** All right.

12 And again, this may well be a document
13 that's already in evidence here. I believe it is.

14 So he prepared a report that set out a
15 little bit about the structure of the diocese?

16 **BISHOP DUROCHER:** That's correct.

17 **MR. ENGELMANN:** And that reference is set
18 out, as I said, in the bullets at the bottom of page 3, but
19 I note that applies to all dioceses, when he is talking
20 about Corporation Sole for example and terms of that nature
21 and the fact that they are autonomous and independent?

22 **BISHOP DUROCHER:** Corporation Sole is a
23 legal structure in Canada and in the United States. I
24 wouldn't be able to speak about the corporative structure,
25 civil structure of dioceses elsewhere in the world.

1 **MR. ENGELMANN:** All right. But that applies
2 in North America?

3 **BISHOP DUROCHER:** Most typically in North
4 America, yes, but not in Quebec.

5 **MR. ENGELMANN:** Okay. All right. And what
6 is stated here is that the "Bishop of the Diocese is the
7 sole officer, director and chief administrator".

8 **BISHOP DUROCHER:** That's correct.

9 **MR. ENGELMANN:** All right. So that would be
10 true of this Diocese and dioceses in English Canada?

11 **BISHOP DUROCHER:** Yes.

12 **MR. ENGELMANN:** And there are references
13 with respect to the autonomy of a diocese, of a financial
14 perspective.

15 **BISHOP DUROCHER:** Pardon. I didn't hear the
16 question.

17 **MR. ENGELMANN:** I'm sorry. There are
18 several references to the autonomy of a diocese from a
19 financial perspective?

20 **BISHOP DUROCHER:** Yes.

21 **MR. ENGELMANN:** And I just note there and
22 I'm not sure I understood this, the third point where it
23 says:

24 "A Diocese is an autonomous and
25 independent entity run by a Bishop

1 subject to certain negative financial
2 limits, the transgression of which
3 require approval of the Pope..."

4 What is meant by "certain negative financial
5 limits"?

6 **BISHOP DUROCHER:** For example, I cannot sell
7 a property over approximately \$450,000 -- I'm sorry, let me
8 take that back. I cannot sell a property over \$4.5 million
9 without the approval of the Pope. That's what's understood
10 by a negative limit.

11 **MR. ENGELMANN:** Okay.

12 **BISHOP DUROCHER:** That there is a limit
13 beyond which I cannot act without the permission of the
14 Pope.

15 **MR. ENGELMANN:** But aside from that type of
16 limit, you have complete autonomy from a financial
17 perspective?

18 **BISHOP DUROCHER:** In the administration,
19 yes. Canon law lays down a series of rules that have to be
20 respected in the administration and obviously I must
21 respect the civil laws of government.

22 **MR. ENGELMANN:** And, sir, what do you mean
23 when you say being subject to the temporal jurisdiction of
24 the Pope?

25 **BISHOP DUROCHER:** It requires approval of

1 the Pope as well as otherwise being subject to the temporal
2 jurisdiction of the Pope. Simply, it's the temporal area
3 of the Pope's jurisdiction on the goods of -- the financial
4 goods of the Diocese, of the Church.

5 **MR. ENGELMANN:** Then on the following page
6 of your outline at page 4, the caption is "The Diocese of
7 Alexandria-Cornwall". As I understand it, we have an
8 organizational chart at Tab 2.1?

9 **BISHOP DUROCHER:** Yes.

10 **MR. ENGELMANN:** And could you just elaborate
11 a little bit on that chart for us, Bishop Durocher?

12 **BISHOP DUROCHER:** The numbers that are
13 listed under the titles are the numbers of the canons in
14 the Code of Canon Law that correspond to the description of
15 those various roles.

16 So, for example, the role of Bishop is
17 described from Canons 375 to 402 in the Code of Canon Law.

18 **MR. ENGELMANN:** So those are effectively
19 rules that set out your duties and your responsibilities
20 and powers?

21 **BISHOP DUROCHER:** And my powers, exactly.

22 **MR. ENGELMANN:** To the right of the Bishop I
23 wrote down the various individuals that typically form the
24 backbone of the Bishop's staff. In all dioceses there is
25 at least one vicar general. The vicar general is a priest

1 who shares the ordinary powers of a Bishop and there can be
2 Episcopal vicars that share to some extent in the powers of
3 the Bishop. In this Diocese there are presently no
4 Episcopal vicars. There is one general vicar who is
5 presently Father Calvin Maloney.

6 **MR. ENGELMANN:** But someone in that capacity
7 would always be a priest?

8 **BISHOP DUROCHER:** Always be a priest, that's
9 correct.

10 A chancellor doesn't necessarily have to be
11 a priest. The chancellor is a person who is assigned, as I
12 was explaining earlier, to the upkeep of the archives of
13 the Diocese and to the correct publication of decisions,
14 edicts, decrees of the Bishop.

15 **MR. ENGELMANN:** So a historian, archivist?

16 **BISHOP DUROCHER:** More like a notary, you
17 could say.

18 **MR. ENGELMANN:** And are these -- are there
19 terms to these positions?

20 **BISHOP DUROCHER:** The term is the one that
21 the Bishop determines in these two. As vicar general and
22 as chancellor there is no term. The finance officer is a
23 five-year term. The finance officer is the chief assistant
24 to the Bishop in administering the goods of the Diocese
25 and, again, that doesn't have to be a priest.

1 **MR. ENGELMANN:** Yes, you said that could be
2 a layperson as well.

3 **BISHOP DUROCHER:** Absolutely. And in most
4 dioceses now it is a layperson.

5 **MR. ENGELMANN:** Okay. And then you have a
6 number of councils that are described to the left?

7 **BISHOP DUROCHER:** These councils are
8 consultative bodies within the Diocese that help the Bishop
9 in the administration of his diocese. The Presbyteral
10 Council is formed by priests. Some are *ex officio*, for
11 example, the vicar general and the chancellor. Others are
12 elected by their peers. Others are named by the Bishop.

13 **MR. ENGELMANN:** So this is a subset of the
14 19 priests in the Diocese?

15 **BISHOP DUROCHER:** Yes. There are 30 priests
16 in the Diocese. There are about 20 active priests in the
17 Diocese. It would be a subset of the 30 priests because we
18 could have retired priests on the Presbyteral Council.

19 **MR. ENGELMANN:** Right.

20 **BISHOP DUROCHER:** And from within the
21 Presbyteral Council there's a smaller group that is chosen
22 called the College of Consulters. The College of
23 Consulters in our Diocese is five priests. For example, if
24 for some reason I was incapacitated as a Bishop, if I died,
25 the College of Consulters would convene to elect the

1 administrator to replace me while they waited for a new
2 Bishop to be named to the Diocese.

3 So the College of Consulters only steps in
4 in special circumstances. I need their approval, for
5 example, if I'm going to sell something over \$450,000, then
6 I would need their approval. I would also need their
7 approval to close or to open a new parish.

8 **MR. ENGELMANN:** These are standing
9 committees?

10 **BISHOP DUROCHER:** These are standing
11 committees.

12 **MR. ENGELMANN:** All right.

13 **BISHOP DUROCHER:** The Pastoral Council is
14 made up of mostly laypeople and that is mostly an advisory
15 body to look at the life of the Church and the Diocesan
16 Finance Council is a committee that is led by the Finance
17 Officer for advising the Bishop in the administration of
18 the Diocese.

19 **MR. ENGELMANN:** And you have a number of
20 other ministries, commissions, et cetera, that are
21 described with a reporting relationship with yourself?

22 **BISHOP DUROCHER:** Yes.

23 **MR. ENGELMANN:** Are these consultative
24 bodies?

25 **BISHOP DUROCHER:** These are more working

1 bodies. They have a task. They coordinate the parish, the
2 diocesan life around a certain issue or they represent the
3 Diocese in certain areas. For example, it's written
4 ecumenism council. We don't really have a council right
5 now. We have one priest who is kind of the liaison for
6 issues in the ecumenism in the Diocese and he will attend
7 an annual meeting of diocesan representatives on the issue
8 of ecumenism, whereas the Office of Families, there's a
9 priest who works there and he has set up a number of groups
10 that work in family ministry within the Diocese.

11 **MR. ENGELMANN:** So you've described a number
12 of these ministries and/or commissions on page 5 of your
13 outline at paragraphs (a) through (i)?

14 **BISHOP DUROCHER:** That's correct.

15 **MR. ENGELMANN:** All right.

16 So it gives us a sense as to what each one
17 of the ministries does.

18 **BISHOP DUROCHER:** That's right.

19 **MR. ENGELMANN:** Okay. And then as well
20 you've included a copy of the Diocesan Directory at Tab
21 2.3.

22 **BISHOP DUROCHER:** Yes, this is our present
23 directory right now which lists, among other things, the
24 members of all these various committees, commissions, also
25 gives all the parishes of the Diocese and the priests who

1 are responsible for them, the deacons that are assigned to
2 the various parishes.

3 **MR. ENGELMANN:** All right.

4 And it also has some statistics about the
5 members of the Diocese. I'm just looking at page 8, for
6 example, 56,000 out of 87,000 in the geographic area of the
7 Diocese of Alexandria-Cornwall are of the Catholic faith?

8 **BISHOP DUROCHER:** Yes.

9 **MR. ENGELMANN:** And it lists your priests,
10 et cetera.

11 Is this relatively up to date, sir?

12 **BISHOP DUROCHER:** This would be up to date
13 as of last September. We'll be renewing this -- updating
14 it next month.

15 **MR. ENGELMANN:** And does it set out -- yes,
16 it sets out all the parishes that are located within the
17 Diocese of Alexandria-Cornwall?

18 **BISHOP DUROCHER:** Correct.

19 **MR. ENGELMANN:** Okay. All right.

20 The next section deals with the duties of
21 parish priests and parish structure.

22 Mr. Commissioner, I'm not sure if this would
23 be an appropriate time or if you would like me to carry on?

24 **THE COMMISSIONER:** No, I think we should
25 conclude for the day.

1 **MR. ENGELMANN:** Okay.

2 **THE COMMISSIONER:** And we would start
3 tomorrow morning at 9:30.

4 So timing, do you have any idea how long you
5 might be, sir?

6 **MR. ENGELMANN:** I'll finish before lunch,
7 before the noon break, in my anticipation, but it may be
8 around the noon hour.

9 **THE COMMISSIONER:** Okay. And there are two
10 competing interests, I think. First of all, I understand
11 that the Bishop has to be away -- was available later into
12 Thursday evening. He can stay later if need be, but I also
13 understand that the lawyers -- what time is the train if
14 the train is leaving on Thursday?

15 **MR. ENGELMANN:** Well, there's a train at
16 4:45 and I know people like to leave at 4:15.

17 So perhaps what I could do is just consult
18 with counsel about the length of time that they might be in
19 their cross-examination.

20 **THE COMMISSIONER:** Right.

21 **MR. ENGELMANN:** I indicated to counsel
22 earlier in the week witness unavailability on Friday and I
23 didn't meet any objection. In fact, people were keen to
24 finish on Thursday and the Bishop has kindly offered to
25 stay late if that's necessary.

1 **THE COMMISSIONER:** All right.

2 **MR. ENGELMANN:** I'm hoping it won't be.

3 **THE COMMISSIONER:** All right.

4 But I'm open to either cutting the lunch
5 break or doing things like that so we can accommodate
6 everyone, and failing which we will see where we go.

7 **MR. ENGELMANN:** Okay. I'll speak to counsel
8 right now.

9 **THE COMMISSIONER:** Merci.

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

12 The hearing is now adjourned. L'audience
13 est ajournée.

14 --- Upon adjourning at 4:38 p.m./

15 L'audience est ajournée à 16h38

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

I, Sean Prouse a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Sean Prouse, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Sean Prouse, CVR-CM