

**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 79

Held at :

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

Thursday, December 14, 2006

Tenue à:

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

Jeudi, le 14 décembre 2006

Appearances/Comparutions

Mr. John Spice	Lead Investigator
Mr. Pierre R. Dumais	Commission Counsel
Ms. Louise Mongeon	Registrar
Mr. John E. Callaghan Mr. Mark Crane	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Leslie McIntosh	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
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Giuseppe Cipriano	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
Ms. Jill Makepeace	Mr. Jacques Leduc
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Geoffrey Bryce	Mr. John MacDonald

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1 --- Upon commencing at 9:34 a.m./

2 L'audience débute à 9h34

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Good morning.

10 **MR. DUMAIS:** Good morning Commmissioner.

11 Before I call Mr. MacDonald, I'd invite Mr. Cipriano to
12 make his submission.

13 **THE COMMISSIONER:** Yes. Good morning sir.

14 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. CIPRIANO:

15 **MR. CIPRIANO:** Good morning Mr.

16 Commissioner.

17 I'm back here today with instructions from
18 my client and we did receive instructions to pursue a
19 review but, when I say that, it's instructions to pursue a
20 consolidated appeal with the issue with the Diocese. And
21 so, we do have those instructions and so, what we are
22 seeking to do, is have the two matters consolidated so they
23 can be heard by the Court of Appeal at once and we think
24 that way, it can save a lot of time and the Inquiry can
25 still do its work. In these circumstances, I would be

1 asking for a further interim publication ban until we can
2 consolidate the matters.

3 **THE COMMISSIONER:** When?

4 **MR. CIPRIANO:** My assistant is, as we speak,
5 trying to get a hold of the Trial Court in Ottawa in a way
6 that we can bring an emergency motion to consolidate the
7 two and I'm hoping that there is some time, in the upcoming
8 days next week that we can do this.

9 **THE COMMISSIONER:** Submissions please.

10 Mr. Manson?

11 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANSON:**

12 **MR. MANSON:** If I can make one suggestion
13 Mr. Commissioner. There was a conference call at 9:00
14 o'clock with the Motions Clerk of the Court of Appeal. As
15 of last night, it was still a little unclear exactly what
16 was going on at that meeting and what the object was. I
17 don't see anyone here from the Diocese.

18 Perhaps we could hold this -- extend your
19 9:30 publication ban to later in the day, so we could find
20 out exactly what happened at that meeting. Because it may
21 be that the stay in that case has already been dealt with.
22 It may be that we'll learn something that would cause me to
23 make some submissions about the proposed strategy of Mr.
24 Cipriano and the consolidation of these issues, which I
25 still consider to be different issues. And I am not

1 persuaded that the Court of Appeal would necessarily
2 consolidate them. But I'd like to know what happened at
3 the 9:00 o'clock meeting.

4 **THE COMMISSIONER:** All right. So -- Mr.
5 Cipriano?

6 **MR. CIPRIANO:** I agree with Mr. Manson, I
7 think that's a good idea, to wait until Mr. Sherriff-Scott
8 gets here, because I do understand that the issue may have
9 been raised in this conference call. And so it may be
10 prudent to wait for a response from that call.

11 **THE COMMISSIONER:** Mr. Cipriano, let me make
12 it very clear that, as I've indicated yesterday, I, of
13 course, respect the fact that folks can bring matters to
14 review and I encourage that in a sense that it lets me
15 sleep well at night knowing that there are wiser men and
16 women than I, that are going to look over these matters.

17 But I will not have any patience for any
18 delays. And so, when you say "We're going to ask for the
19 stay for a couple of days next week", that isn't going to
20 work with me and I'm putting you on notice right now, that
21 if you come up and say something like that, the answer will
22 likely be "No". All right?

23 So you phone up the Court of Appeal, you
24 phone up whoever you want to, you get a date set, you tell
25 me that it's the earliest date possible, you understand me,

1 the earliest date. All right?

2 And I don't care about lawyers' schedules or
3 anything like that; it has to be at the earliest date. And
4 at that point, I'm sure going to try to accommodate people,
5 with respect to their appeal rights.

6 **MR. CIPRIANO:** Yes, thank you Mr.
7 Commissioner. And as I said, my assistant right now as we
8 speak, is getting a hold of the trial coordinator.

9 I'd like to say, I'm a bit concerned because
10 I'm not -- I don't want to be seen as trying to bog down
11 the Inquiry. The reason I say that is, because I know the
12 issue came up as to why I didn't have instructions
13 yesterday.

14 But, in order to have instructions, I do
15 have to advise and give opinions, with the full set of
16 circumstances, including the reasons for dismissing the
17 motion and absent the reasons, I cannot give proper advice.

18 So, I had to wait for the issue to arise,
19 because the way it was litigated, is on November 17th, the
20 motion was dismissed in part, on the name only. And then
21 yesterday, the motion was dismissed on the details.

22 And so, I had to wait for a full set of
23 reasons, before I could adequately advise my client. And
24 so, it's for those reasons, I don't want to be seen as
25 trying to bog down the Inquiry. I am prepared to sit

1 longer, if we have to, but I don't want to be seen ---

2 **THE COMMISSIONER:** Sit longer?

3 **MR. CIPRIANO:** In order to finish whatever
4 it is, with the witnesses and so on.

5 **THE COMMISSIONER:** That's very good of you.
6 I understand that, sir; it's just that other people had
7 those instructions in their pockets, right away. And so
8 I'm saying ---

9 **MR. CIPRIANO:** As I said, I wanted to have
10 the reasons before, to adequately advise my client.

11 **THE COMMISSIONER:** Fair enough.

12 Let's call Mr.

13 **JOHN MacDONALD, Resumed/Sous affirmation solennelle:**

14 **MR. DUMAIS:** Mr. MacDonald please.

15 Good morning John.

16 **MR. MacDONALD:** Good morning Pierre.

17 **MR. DUMAIS:** Before I ask you my first
18 question this morning John, I'm just going to ask that we
19 file three further exhibits this morning, they are all
20 correspondence that are related, one to another, and will
21 help us form the complete story. The first piece of
22 correspondence Madam Clerk, is the one that is at doc.
23 number 737943, Bates page number 7160702. Actually, I'll
24 be filing that one as well, that should be the third
25 document filed this morning. The other one is the one that

1 was found at Tab 44, should be 723183, Bates page number
2 7090665.

3 **THE REGISTRAR:** One eight three (183)?

4 **MR. DUMAIS:** That appears to be the correct
5 one, Madam Clerk.

6 **THE COMMISSIONER:** So I have -- what exhibit
7 number are you up to now?

8 **MR. DUMAIS:** We were at 221, Commissioner.

9 **THE COMMISSIONER:** So this would be 221,
10 Madam Clerk?

11 **TRE REGISTRAR:** Yes.

12 **THE COMMISSIONER:** Two-twenty-one (221) is a
13 letter dated October 24th, 1995, addressed to the Attorney
14 General from John MacDonald.

15 **---EXHIBIT NO./PIÈCE NO P-221:**

16 (706108) Letter from the Attorney General of
17 Ontario to John MacDonald - October 24,
18 1995.

19 **MR. DUMAIS:** Perhaps Commissioner, if you
20 can just read in the Bates page number and the doc. number
21 from that document, because there are various versions of
22 that document in our disclosure and I just want to make
23 sure everyone's on the same page.

24 **THE COMMISSIONER:** Seven zero two three one
25 one three (7023113)?

1 **MR. DUMAIS:** That would be the document
2 number, Commissioner?

3 **THE COMMISSIONER:** No, that's the one on the
4 left-hand side, you want the document number?

5 **MR. DUMAIS:** Please Commissioner.

6 **THE COMMISSIONER:** Seven zero six one zero
7 eight (706108).

8 **MR. DUMAIS:** All right. Now, the second
9 document, and I have it down here as 723183, Bates page
10 number is 7090665 to -- that should be Exhibit 222.

11 **THE COMMISSIONER:** All right, thank you.
12 So, Exhibit 222 is the letter dated December 1st, 1995,
13 addressed to Mr. John MacDonald from Peter Griffiths,
14 Regional Director of Crown Attorneys.

15 **---EXHIBIT NO./PIÈCE NO P-222:**

16 (723183) Letter from Peter Griffiths to John
17 MacDonald - December 1, 1995.

18 **MR. DUMAIS:** That is correct. And then
19 lastly, Exhibit 737943, Bates page number 7160706, it
20 should be a letter from the Attorney General to the MP John
21 Cleary; 737943 is the doc. number, Bates page 7160706.

22 We will locate that document Commissioner,
23 I'll file it, it's one of the last documents I'm referring
24 to this morning.

25 **THE COMMISSIONER:** I think it's been found.

1 Thank you. Exhibit 223 is a letter dated April 29th, 1996,
2 addressed to Mr. John Cleary, MPP, from Charles Harnick,
3 Attorney General and Minister Responsible for Native
4 Affairs.

5 ---EXHIBIT NO./PIÈCE NO P-223:

6 (737943) Letter from Charles Harnick to John
7 Cleary - April 29, 1996.

8 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR

9 MR. PIERRE DUMAIS :

10 MR. DUMAIS: Perfect, thank you.

11 All right, John, so if I can put you back in
12 context, yesterday I asked you about a meeting that you
13 would have had with Mr. Cleary at his office and I gather
14 from that meeting, what he asked from you is, that you put
15 down your thoughts on paper and that he would assist you in
16 forwarding your concerns or your correspondence to the
17 Attorney General's office.

18 MR. MacDONALD: That's correct.

19 MR. DUMAIS: And, I believe that you did so
20 on October 24th of that year and, if you can just have a
21 look at that document, which I believe is Exhibit 221.

22 Now John, do I have that right, that this
23 was not actually forwarded by yourself to the AG's office,
24 but rather it was done through Mr. Cleary's office, is it?

25 MR. MacDONALD: I'm not sure.

1 **MR. DUMAIS:** Okay. This is a letter that
2 you would have written out; you recognize the signature and
3 the handwriting here?

4 **MR. MacDONALD:** That's correct.

5 **MR. DUMAIS:** And as I understand it John,
6 what you did at the beginning of your letter, you did a
7 chronology of some of the events that affected David
8 Silmsler and you've touched as well, on how the media
9 reported some of the incidents.

10 **MR. MacDONALD:** That's correct.

11 **MR. DUMAIS:** I'm just looking now at the
12 last page of that document, the signature page. And I'm
13 reading the second-last paragraph:

14 "This letter to you has to do with a
15 case of obstruction of justice in the
16 decision handed down to a guilty plea.
17 I'm truly hoping that you can give some
18 answers to my disturbed questions on
19 the decision. Justice seems to have
20 been denied. When justice is denied,
21 everyone suffers".

22 So you indicated yesterday John, that he had
23 been concerned with the sentencing, following the plea on
24 the obstruct justice charge of Malcolm MacDonald, is that
25 correct?

1 **MR. MacDONALD:** That's correct.

2 **MR. DUMAIS:** All right. And what was your
3 concern and what were you requesting from the AG's office
4 here?

5 **MR. MacDONALD:** Clarification.

6 **MR. DUMAIS:** And what was your concern and
7 what were you requesting from the AG's office here?

8 **MR. MacDONALD:** Clarification.

9 **MR. DUMAIS:** You wanted clarification as to
10 what submissions had been made on the sentence or what deal
11 had been made?

12 **MR. MacDONALD:** Just the whole thing, how a
13 man can plead guilty to something and walk away with an
14 absolute discharge.

15 **MR. DUMAIS:** Okay. So you're concerned with
16 the sentencing that had been rendered by the Court?

17 **MR. MacDONALD:** That's correct.

18 **MR. DUMAIS:** And what you wanted to know was
19 what were the circumstances of that plea and that sentence?

20 **MR. MacDONALD:** That's correct.

21 **MR. DUMAIS:** Now, I understand that Mr.
22 Cleary did take that piece of correspondence and did
23 forward that to the Honourable Charles Harnick, and that's
24 in his letter dated November 1st, '95. I believe I did
25 refer to that exhibit, which is Exhibit 209. I'm simply

1 showing you, John, that Mr. Cleary appears to have
2 forwarded your correspondence on that date to the AG's
3 office.

4 **MR. MacDONALD:** It would seem that way.

5 **MR. DUMAIS:** Now, my understanding, John, is
6 that you received a reply, and that is Exhibit 221, and
7 that's correspondence from Mr. Peter Griffiths. That's
8 addressed to you and it is dated December 1st, 1995.

9 **MR. MacDONALD:** Is that 222, you mean?

10 **THE COMMISSIONER:** Yes, it is.

11 **MR. DUMAIS:** Correct.

12 Just take a minute, John, and go through the
13 contents of the correspondence to you.

14 **(SHORT PAUSE/COURTE PAUSE)**

15 **MR. DUMAIS:** So Mr. Griffiths firstly starts
16 by indicating that you had concerns about the sentencing on
17 the obstruct charge and he indicates what the Crown's
18 office did with respect to this case. He got a Crown that
19 had not been involved in this case, was from outside of the
20 jurisdiction, to deal with the matter and makes the
21 conclusion in the second paragraph as well that the
22 sentencing received was similar to other cases that had
23 been decided by the courts in other provinces.

24 So despite that correspondence, John, am I
25 to understand that you still had some concerns as to the

1 process, and by that I mean the plea and the sentencing
2 that was imposed?

3 **MR. MacDONALD:** That's correct.

4 **MR. DUMAIS:** And you did follow-up by
5 sending a further letter requesting further detail. And if
6 I can take you then to Exhibit 211, that's a letter
7 addressed to you dated January 22nd, '96 from the MPP Mr.
8 John Cleary indicating or making reference to your January
9 8th letter, and he had indicated to you at that time that he
10 had not been privy to the correspondence between Mr.
11 Griffiths and yourself, and I believe that you had provided
12 him with a copy of that correspondence. Is that right?
13 Does that make sense?

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

15 **MR. DUMAIS:** All right.

16 Now, if I can then take you to Exhibit 213,
17 which is a letter, I believe, your letter to Mr. Peter
18 Griffiths dated January 8th of 1996. Can you just identify
19 for us that letter and your signature at the bottom?

20 **MR. MacDONALD:** That's correct.

21 **MR. DUMAIS:** Now, in that correspondence you
22 had summarized what Mr. Griffiths had indicated to you in
23 his correspondence and requested a number of things for
24 you. You asked him to follow up on the sentencing, asked
25 him for a copy of the transcripts of the proceedings, as

1 well as what other cases he alluded to in his previous
2 correspondence. Is that right?

3 **MR. MacDONALD:** That's correct.

4 **MR. DUMAIS:** And I understand that in
5 February of that year you had not received a response to
6 that initial -- that January 8th correspondence. And I'm
7 just referring you to Exhibit 214, and in the last
8 paragraphs -- so you're enclosing the correspondence with
9 Mr. Griffiths here as well as the correspondence of Chief
10 Repa, and we'll deal with that in just a second. In the
11 last paragraph you appear to advise Mr. Cleary that you
12 still had not received a correspondence -- a response to
13 your January 8th correspondence.

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

15 **MR. DUMAIS:** Now, if I can take you then to
16 Exhibit 216, which is a letter from Mr. Cleary to yourself
17 dated February 20th, 1996, I understand from that
18 correspondence, John, that you met further with Mr. Cleary
19 and you discussed some of the concerns that you had, one of
20 which was that you had not received a reply to your January
21 8th, request, and I believe Mr. Clearly had indicated that
22 he would forward your concerns through correspondence to
23 the AG's office, and I believe he did so, and that's at
24 Exhibit 217.

25 Do I have that correctly, John?

1 **MR. MacDONALD:** That's correct.

2 **MR. DUMAIS:** All right.

3 And that letter is dated February 20th, 1996.

4 And then there is at Exhibit 219 Mr. Cleary
5 appears to follow up on his correspondence of February 20th,
6 again referring to your January 8th correspondence, the
7 January 8th correspondence to Mr. Griffiths. And once again
8 he's providing you -- he's providing the AG's office with a
9 copy of that second letter.

10 **MR. MacDONALD:** That's correct.

11 **MR. DUMAIS:** And then on the same date, and
12 that's Exhibit 220, you're copied with that correspondence,
13 and that bears the same date, so April 25th, 1996.

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

15 **MR. DUMAIS:** Now, the AG's office does
16 communicate back with Mr. John Cleary, and that's Exhibit
17 223. And the AG's office is indicating to Mr. Cleary --
18 and I don't believe you were copied -- forget that
19 question.

20 Mr. Charles Harnick from the AG's office
21 communicates with Mr. Cleary, advises that he has asked Mr.
22 Peter Griffiths from the Crown's office. He communicated
23 back with you as it would be inappropriate to communicate
24 directly with you because there was an ongoing
25 investigation.

1 So my question to you, John, is, was there
2 ever any follow-up from Peter Griffiths on this issue
3 following his initial response?

4 **MR. MacDONALD:** Without looking through all
5 the correspondence I have, I can only say I don't know.

6 **MR. DUMAIS:** So, John, the second issue that
7 you dealt with through correspondence at about that period
8 of time is a letter that you would have sent to Chief Repa
9 of the Cornwall Police Services. And I believe that the
10 first relevant correspondence is found at Exhibit 210. Do
11 you recognize that correspondence, John?

12 **MR. MacDONALD:** Yes, I do.

13 **MR. DUMAIS:** All right.

14 So that's your letter to Chief Repa?

15 **MR. MacDONALD:** Yes.

16 **MR. DUMAIS:** So essentially you're making
17 reference to the incident, and you've alluded to that
18 yesterday a bit, where an officer from the Cornwall Police
19 Services contacted you by telephone to advise you not to
20 communicate with Father Maloney?

21 **MR. MacDONALD:** That's correct.

22 **MR. DUMAIS:** And can you explain to me --
23 and you touched on this a bit yesterday as well -- what
24 your concern was with that call from Officer Wilson?
25 Because I understand you're asking him to explain the event

1 ---

2 **MR. MacDONALD:** Clarify again.

3 **MR. DUMAIS:** Clarify the event completely.

4 Perhaps you can just help us by explaining
5 what you understood the constable was telling you and what
6 you were requesting.

7 **MR. MacDONALD:** What I was requesting was,
8 first off, I felt I did nothing wrong at all by calling
9 Father Maloney and leaving a message for him to call me
10 back, no threat, no nothing else, "Call me back." I get a
11 call from a Cornwall Police officer asking me not to call
12 again, that she had went to a complainant's residence
13 which, number one, tells me somebody complained, and that
14 she and the priest, along with his lawyer, was standing
15 there as Constable Wilson was there and took a complaint
16 against me.

17 And she calls me and orders me, and that's
18 the way it came across, was an order not to call Father
19 Maloney.

20 **MR. DUMAIS:** All right.

21 **MR. MacDONALD:** That there was an ongoing
22 investigation.

23 **MR. DUMAIS:** So then you do receive a
24 response to your correspondence. I'm going to take you to
25 Exhibit 212.

1 So did this address your concerns or did you
2 still have ongoing concerns?

3 **MR. MacDONALD:** It raised more concerns.

4 **MR. DUMAIS:** So what concerns did that
5 raise?

6 **MR. MacDONALD:** Well, again, it sounds like
7 a simple little line, but "to have these types of phone
8 calls discontinued", I didn't understand that line. And
9 again, really, the same concerns; they weren't answered --
10 initially raised, weren't answered in this correspondence.

11 **MR. DUMAIS:** So then I understand that you
12 wrote again to Chief Repa at the beginning of February, and
13 that's Exhibit 215. So I think that further explains what
14 you've just said, John, whether or not there had been a
15 complaint, whether or not there was an ongoing
16 investigation or whether there had been an investigation
17 with you being the subject matter of ---

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

19 **MR. DUMAIS:** All right.

20 And I believe the reply to that
21 correspondence is found at Exhibit 218, and that's a letter
22 dated April 26, '96 addressed to you from Constable J.R.
23 Burnie from the Cornwall Police Services.

24 So I guess Constable Burnie explains the
25 events in a little more detail. Paragraph 3, I'll just

1 read you that first sentence. It reads as follows:

2 "On August 19th, 1995, at approximately
3 2:30 p.m., Constable Wilson attended
4 the residence of Father Maloney who had
5 his lawyer Sean Adams present."

6 Now, you did speak to the fact that you
7 initially spoke to Sean Adams as well. Is it through this
8 correspondence that you found out that he had spoken to
9 Father Maloney?

10 **MR. MacDONALD:** That's correct.

11 **MR. DUMAIS:** All right.

12 And I believe Constable Bernie, in that
13 correspondence, corrects a contact date. So rather than
14 August 21st being the attempted contact date with you,
15 corrects that to being August 24th?

16 **MR. MacDONALD:** That's correct.

17 **MR. DUMAIS:** And he does confirm in the
18 third-last paragraph, looking at the second line:

19 "At no time were you part of an
20 investigation with the police services.
21 This was simply a situation where a
22 request was made to our police service
23 to advise you to make no further calls
24 to Father Maloney, and that was the
25 only investigation we conducted and it

1 certainly wasn't ongoing from our
2 perspective."

3 So in your mind, John, did that answer all
4 of your concerns?

5 **MR. MacDONALD:** No.

6 **MR. DUMAIS:** So you had ongoing concerns as
7 well?

8 **MR. MacDONALD:** Yes.

9 **MR. DUMAIS:** All right.

10 And what were they at that point?

11 **MR. MacDONALD:** Well, again, sometimes an
12 answer raises more questions. Now, to go back to wonder
13 what the questions were at that time, I don't know. But
14 again, clarification wasn't reached to my satisfaction.

15 **THE COMMISSIONER:** But can you help me
16 today? What are your concerns today?

17 **MR. MacDONALD:** Well, there was still some
18 question as to an ongoing investigation when it was
19 mentioned. What was the ongoing investigation that would
20 pertain to me, that something couldn't be answered to me.

21 **THE COMMISSIONER:** So as it pertained to
22 you, yes.

23 **MR. MacDONALD:** Do you understand?

24 **THE COMMISSIONER:** Yes, I understand.

25 **MR. MacDONALD:** So it raised -- there was

1 other things that might have come up that were still
2 concerning me, but that was the one major issue was an
3 ongoing investigation.

4 **MR. DUMAIS:** Was part of it, John, that you
5 walk into the police detachment as a victim with an
6 allegation and you got the sense or the impression that you
7 were being investigated? Is that part of the problem?

8 **MR. MacDONALD:** Maybe. It just left a
9 creepy feeling down my spine. You know, ongoing
10 investigation was mentioned and mentioned and mentioned
11 over and over and over again right from the beginning, from
12 the call being left at Father Maloney's office, and I was
13 just wondering what was being investigated.

14 **MR. DUMAIS:** All right.

15 Now, John, I understand that at about that
16 period of time, that you would have had some conversation
17 at around the 6th day of March 1996 or prior -- sorry, you
18 had a conversation with the Crown Attorney, Mr. Robert
19 Pelletier on or around the beginning of March 1996 about
20 impending charges being laid with respect to Father Charlie
21 MacDonald. Do you recall a conversation with the Crown?

22 **MR. MacDONALD:** On March 1st, '96.

23 **MR. DUMAIS:** All right.

24 Do you have a recollection of what was said
25 or did you mark it down?

1 **MR. MacDONALD:** I've got here "Crown
2 Attorney Bob Pelletier calls, says that he's recommending
3 charges on all counts on Dave, XXXXX and myself. Will meet
4 with Smith and Fagan on Tuesday, March 5th to pass on his
5 recommendations. Expects Smith and Fagan to act promptly."

6 **MR. DUMAIS:** All right.

7 And do you recall having that meeting
8 afterwards -- sorry, were you part of that meeting?

9 **MR. MacDONALD:** No.

10 **MR. DUMAIS:** All right.

11 You were made aware that at one point in
12 time -- and I believe the date is March 6th, 1996 -- that an
13 information was sworn and Father MacDonald was charged.

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

15 **MR. DUMAIS:** All right.

16 Now, the first question I have for you, from
17 the time you made your statement at the end of September to
18 the time that you were advised on March 1st the charges were
19 impending, were you in contact with the Crown's Office or
20 were you in contact with the investigators to keep you
21 informed of what was going on and what they were doing and
22 where they were at?

23 **MR. MacDONALD:** Sometimes.

24 **MR. DUMAIS:** All right.

25 And these communications were coming from

1 where? Were they coming from the investigators or from the
2 Crown's Office?

3 **MR. MacDONALD:** The investigators. There
4 was no contact with -- I believe there was no contact with
5 the Crown up until the point of the March 1st contact.

6 **MR. DUMAIS:** All right.

7 And the officer or officers that were
8 communicating with you, do you recall who they were?

9 **MR. MacDONALD:** Mainly Tim Smith.

10 **MR. DUMAIS:** All right.

11 So he's the guy that was principally
12 communicating with you; is that correct?

13 **MR. MacDONALD:** That's correct.

14 **MR. DUMAIS:** All right.

15 Now, the first appearance on this matter, as
16 far as I understand, would have been on March 25th, 1996.
17 Now, I know that you attended many of the court
18 appearances. Do you recall if you were there on the first
19 day?

20 **MR. MacDONALD:** I'm pretty sure, pretty
21 confident that I was there.

22 **MR. DUMAIS:** All right.

23 So someone would have called you and told
24 you, "Listen, the first court appearance is on such and
25 such a date"?

1 **MR. MacDONALD:** That's correct.

2 **MR. DUMAIS:** And I understand that the Crown
3 Attorney that appeared on that day would have been Mr.
4 Simard. Is that correct?

5 **MR. MacDONALD:** I don't know.

6 **MR. DUMAIS:** All right.

7 Is it fair to say that for the first part of
8 this prosecution, you would have dealt principally with Mr.
9 Robert Pelletier from the Crown's Office?

10 **MR. MacDONALD:** That's correct.

11 **MR. DUMAIS:** Because he's the one that
12 conducted the preliminary inquiry on both days?

13 **MR. MacDONALD:** That's correct.

14 **MR. DUMAIS:** And I believe he was present as
15 well when the matters were committed to trial?

16 **MR. MacDONALD:** That's correct.

17 **MR. DUMAIS:** Okay. If we can start firstly,
18 Commissioner, by filing some of these transcripts or
19 proceedings? I'm going to be referring to some of them.
20 So the first one would be Doc Number 111248, Bates page
21 number 10555694 through 1055883. The transcript date is
22 February 24th, 1997.

23 **THE COMMISSIONER:** Thank you. That will be
24 Exhibit Number 224.

25 **--- EXHIBIT NO./PIÈCE NO. P-224:**

1 (111248) Transcript - R. v. Charles
2 MacDonald - February 24, 1997

3 **THE COMMISSIONER:** I see that there is a
4 publication ban there from Judge Dempsey. Is that still
5 outstanding or ---

6 **MR. DUMAIS:** I'll address that in just a
7 minute, Commissioner.

8 **THE COMMISSIONER:** Sure.

9 **MR. DUMAIS:** I need the other transcripts to
10 make proper submissions.

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

12 **MR. DUMAIS:** The second transcript which is
13 Doc Number 111265, which I believe to be the continuation
14 of the preliminary inquiry as it relates to John MacDonald,
15 Bates pages 1057313 to 1057484.

16 **THE COMMISSIONER:** Thank you. Exhibit
17 Number 225, which is another transcript.

18 --- **EXHIBIT NO./PIÈCE NO. P-225**

19 (111265) Transcript - R. v. Charles
20 MacDonald - September 8, 1997

21 **MR. DUMAIS:** The third transcript is found
22 at Doc Number 113583, Bates page number 1068841, and they
23 are the Reasons for Judgment of the Honourable Judge
24 Dempsey. They are dated October 24th, 1997.

25 **THE COMMISSIONER:** Exhibit 226.

1 **--- EXHIBIT NO./PIÈCE NO. P-226**

2 (113583) Transcript - R. v. Charles
3 MacDonald - October 24, 1997

4 **MR. DUMAIS:** And finally, the last
5 transcript I wish to file is Doc Number 116154, Bates pages
6 number 1077160 through 1077188.

7 **THE COMMISSIONER:** Exhibit 227.

8 **--- EXHIBIT NO./PIÈCE NO. P-227**

9 (116154) Transcript - R. v. Charles
10 MacDonald - May 13, 2002

11 **MR. DUMAIS:** And that's the ruling of
12 Justice Chilcott dated May 13, 2002.

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

14 **MR. DUMAIS:** So just before we start, John,
15 let me just deal with the publication ban issue.

16 As you've correctly pointed out,
17 Commissioner, the first transcript identifies the
18 publication ban order that was made by Justice Dempsey on
19 February 24th, 1997. I can advise that that publication ban
20 is a preliminary inquiry publication ban, which essentially
21 lapsed on the stay of proceeding in 2002.

22 However, we need to look at that stay of
23 proceeding transcript. I'm sorry, Commissioner, I forgot
24 to mark down the exhibit number. The one dated May 13th,
25 2002.

1 **THE REGISTRAR:** Exhibit 227.

2 **MR. DUMAIS:** Pardon me?

3 **THE REGISTRAR:** Exhibit 227.

4 **MR. DUMAIS:** Okay. Thank you.

5 So that transcript identifies or makes
6 reference to a non-publication order at the bottom of the
7 first page.

8 Now, my understanding is that Justice
9 Chilcott was considering issuing a publication ban on the
10 names of all of the victims and my understanding is that
11 Mr. MacDonald was objecting and was asking that the matter
12 proceed without a ban on his name.

13 Therefore, there is an outstanding 486(3)
14 ban on all the names of the victims, with the exception of
15 Mr. John MacDonald.

16 **THE COMMISSIONER:** All right.

17 **MR. DUMAIS:** Now, I can advise as well that
18 the Attorney General assisted us in filing an application
19 to have that ban partly lifted as it relates to Mr. David
20 Silmsler. So anything that relates to Mr. John MacDonald
21 and Mr. David Silmsler does not have an accompanying ban.

22 **THE COMMISSIONER:** All right.

23 **MR. DUMAIS:** With respect to the alleged
24 victims from the first set of charges, we have not been in
25 contact with them. So that ban remains in effect as the

1 outstanding ban of Justice Chilcott for the other related
2 victims.

3 So we have previously dealt with outstanding
4 criminal publication bans, Commissioner, by having a ban
5 mirror the one in existence until such time as we're able
6 to lift it and the intent was, or the submission I was
7 making back then was that perhaps our use of the transcript
8 itself or the documents itself could be interpreted as a
9 breach of that ban.

10 So out of an abundance of caution, we have
11 in the past simply issued a ban which mirrored the ban in
12 existence, and I'm asking that we do that.

13 **THE COMMISSIONER:** And how would I -- so
14 that would apply to all of these exhibits, 224 through to
15 227?

16 **MR. DUMAIS:** That's correct, Commissioner.
17 The first two transcripts only deal with victims that were
18 part of the first set of charges and does not identify any
19 of the later victims, but my suggestion is that after we
20 take the morning break, we can start over again in the in
21 camera session so that we're not delayed. I can identify
22 the names of the victims that Justice Chilcott refers to
23 and then we can make the ban official when we boot back up.

24 **THE COMMISSIONER:** Okay. Any comments from
25 anyone with respect to that procedure?

1 **MR. CIPRIANO:** I just have a logistical
2 question. Some of the names may come up or -- I think in
3 some of the exhibits that have already been filed
4 yesterday, some of the names that this ban would affect are
5 in those exhibits as well. And so, should -- what do we do
6 with those exhibits? How do we refer to the names, because
7 those exhibits do not have a publication ban on them?

8 **THE COMMISSIONER:** Maître Dumais?

9 **MR. DUMAIS:** Now, perhaps at the break I can
10 sit down with -- I'm not sure what Mr. Cipriano is
11 referring to. I can canvass that with him at the break and
12 ---

13 **THE COMMISSIONER:** Okay. That's good.

14 **MR. DUMAIS:** I'll address it when we come
15 back.

16 **THE COMMISSIONER:** Thank you.

17 So now, we're just leaving this in suspense
18 for now. I mean, there's the outstanding judicial bans on
19 those names.

20 **MR. DUMAIS:** Yes.

21 **THE COMMISSIONER:** The bottom line is what
22 we're doing is we're going through an exercise so that we
23 can identify for ourselves those names and provide them to
24 media, so that the privacy issues are satisfied?

25 **MR. DUMAIS:** Correct. And I know that for

1 my line of questioning, I don't expect to need to refer to
2 any of those specific names. If some of my friends do, we
3 can address that at that time with perhaps shutting down
4 the camera.

5 All right. John, back to you.

6 So charges had been laid. The first court
7 appearance would have been on March 25th, 1996 and we know
8 from the transcript of the proceedings that you would have
9 testified on February 24th, 1997.

10 Can you just give us a sense, John, of what
11 your involvement had been between those two dates, with
12 either investigators or the Crown's office in terms of
13 contributions to the investigations, whether or not the
14 investigation was continuing and what was being done in
15 terms of preparation for the preliminary inquiry?

16 **MR. MacDONALD:** Very limited or none.

17 **MR. DUMAIS:** Would you -- do you recall
18 having revised or reviewed your statements in preparation
19 for your evidence on February 24th?

20 **MR. MacDONALD:** On my own or asked to?

21 **MR. DUMAIS:** Did you sit down with either of
22 the investigators that took down your statement or with
23 anyone from the Crown's office to review ---

24 **MR. MacDONALD:** I may have had one meeting
25 with Crown prior to taking the stand on February 24th.

1 **MR. DUMAIS:** And as far as you can remember,
2 did that meeting occur shortly before February 24th?

3 **MR. MacDONALD:** I can't recall.

4 **MR. DUMAIS:** And do you recall where that
5 meeting would have taken place?

6 **MR. MacDONALD:** The courthouse in Ottawa.

7 **MR. DUMAIS:** And do you recall the length of
8 time of that meeting?

9 **MR. MacDONALD:** Not really.

10 **MR. DUMAIS:** And do you recall being
11 provided with a copy of your statement and going through
12 it?

13 **MR. MacDONALD:** No.

14 **MR. DUMAIS:** So are you telling us then that
15 meeting would have been a conversation between you and the
16 Crown?

17 **MR. MacDONALD:** That's correct.

18 **MR. DUMAIS:** All right.

19 Now, was it explained to you as to the order
20 of the presentation of the evidence?

21 **MR. MacDONALD:** No.

22 **MR. DUMAIS:** Then is it your evidence that
23 on that morning when you attended court on the 24th, you
24 found out that you'd be testifying first on that day?

25 **MR. MacDONALD:** I can't recall.

1 **MR. DUMAIS:** Okay. Fair enough.

2 Now, on the initial information that was
3 before the Court, there were three alleged victims. Is
4 that correct?

5 **MR. MacDONALD:** That's correct.

6 **MR. DUMAIS:** And were any of the
7 investigators keeping you up to date with respect to new
8 victims of or new alleged victims of Father Charlie
9 MacDonald?

10 **MR. MacDONALD:** No.

11 **MR. DUMAIS:** Some of the names of these
12 alleged victims you provided to either the investigators or
13 the Crown's office. Were some of the victims calling you
14 up and saying "Well, I'm a victim as well" and you turn
15 around and give that name to the investigators?

16 **MR. MacDONALD:** I had people calling me and
17 I'd aim them in that direction, to call the police.

18 **MR. DUMAIS:** All right.

19 So you were not conducting your own
20 investigation into this matter?

21 **MR. MacDONALD:** No.

22 **MR. DUMAIS:** All right.

23 I'm going to refer you to Exhibit 224, John,
24 and I'm not going to go through all of the transcript, but
25 I believe the transcript speaks for itself. I do have some

1 general questions; the first one being that -- and I'm
2 looking at the last page of the -- actually, the second-
3 last page of the transcript which would be Bates page
4 number 1055882. Now, the last comment that is made by the
5 Court that day, at around line 30:

6 "I'm wondering if perhaps we could then
7 adjourn this matter until tomorrow
8 morning in this courtroom at 10
9 o'clock."

10 But you actually take the stand to continue
11 your cross-examination on September 8th, 1997, and we know
12 that from looking at the Exhibit 225.

13 Now, do you recall what were the reasons for
14 the delay in your cross-examination?

15 **MR. MacDONALD:** Are you asking me was I kept
16 apprised of what the reasons were?

17 **MR. DUMAIS:** Well, I guess a bit of both,
18 John. Firstly ---

19 **THE COMMISSIONER:** Do you know what the
20 reason was?

21 **MR. MacDONALD:** Not really. There was just
22 a lot of delays. There was just a lot of delays.

23 **MR. DUMAIS:** Okay. So do you recall going
24 back the next morning to give your evidence or were you
25 called that night?

1 **MR. MacDONALD:** I can't recall.

2 **MR. DUMAIS:** So you can't tell us whether or
3 not you attended ---

4 **MR. MacDONALD:** No.

5 **MR. DUMAIS:** All right.

6 Do you recall why your evidence would not
7 have proceeded on the following day?

8 **MR. MacDONALD:** No.

9 **MR. DUMAIS:** All right.

10 Perhaps to assist us we can have a look at
11 Exhibit 227, which is the decision on the stay proceeding.
12 And so that I don't jump around all over the place, I'm
13 looking at line 117 or 118, and Justice Chilcott goes
14 through the chronology of the court proceedings. Sorry,
15 that's page 1077167. I'm looking at the lines. So on
16 March 25th, 1996 Charles MacDonald made his first court
17 appearance in a Cornwall Court. On August 9th, 1996, after
18 disclosure was completed and two pre-trials had been held,
19 the date for the preliminary inquiry was set for February
20 24th, 1997, which appears to be the date where you gave
21 evidence. And there's one sentence at the end of that
22 page:

23 "The setting of the date had been
24 somewhat complicated by the discoveries
25 in the civil action of the three

1 complainants. During the same period,
2 the second Ontario Police, Provincial
3 Police investigation was taking place.”

4 So do you recall that, John, that at about
5 the same time you were going through the discovery process,
6 that that may have caused difficulties in setting the date
7 for the prelim?

8 **MR. MacDONALD:** I’m not sure when I went for
9 ---

10 **MR. DUMAIS:** So you don’t recall?

11 **MR. MacDONALD:** --- the discoveries on the
12 civil matter.

13 **MR. DUMAIS:** Do you recall whether or not
14 you had completed your examination for discovery of
15 yourself prior to the preliminary inquiry?

16 **MR. MacDONALD:** I can’t recall. I can’t
17 recall when I went for discoveries in the civil matter.

18 **MR. DUMAIS:** All right.

19 Now, the relevant portion of the transcript
20 is found on the next page, 1077168. That’s at line 16.
21 I’ll read it in for you:

22 “In the evening of February 24th, 1997,
23 when XXXX appeared on the news
24 broadcast with an Ottawa TV station,
25 telling the interviewer he was sexually

1 assaulted by the accused..."

2 Do you recall that event now?

3 **MR. MacDONALD:** Yes, I do.

4 **MR. DUMAIS:** And does that help you refresh
5 your memory as to whether or not ---

6 **MR. MacDONALD:** I appeared the next morning?

7 **MR. DUMAIS:** Yes.

8 **MR. MacDONALD:** I think I remember
9 travelling to Ottawa the next morning.

10 **MR. DUMAIS:** So does it make sense that you
11 had been advised then the next morning that you would not
12 be appearing, or do you recall anyone making any
13 submissions ---

14 **MR. MacDONALD:** I can't recall.

15 **MR. DUMAIS:** Okay. Is it fair to say that
16 you would not have given evidence on the following day?

17 **MR. MacDONALD:** That's correct.

18 **MR. DUMAIS:** All right.

19 Now, while we're on those pages, John -- and
20 I just read this in, but I'll read it again:

21 "During the same period, the second
22 Ontario Provincial Police investigation
23 was taking place."

24 So did you have any dealings with that
25 second investigation and ---

1 **MR. MacDONALD:** No.

2 **MR. DUMAIS:** All right.

3 Now, I'll just have you look at Exhibit 226
4 for a minute. That's Bates page number 1068854, towards
5 the bottom of the page. Now, the last four lines:

6 "The accused will be ordered to and
7 committed to trial in regards to Counts
8 1 to 6, both inclusive, as well as the
9 said Count 7 as indicated."

10 So there was a committal to trial on all
11 counts after the preliminary inquiry?

12 **MR. MacDONALD:** That's correct.

13 **MR. DUMAIS:** And from the following page,
14 which is Bates pages 1068855, towards the end of the page,
15 the Court appears to adjourn the matter to the Assignment
16 Court on November 5th, 1997?

17 **MR. MacDONALD:** I guess so.

18 **MR. DUMAIS:** All right.

19 And did you follow -- do you recall
20 appearing in the Superior Court of Justice on November 5th,
21 1997?

22 **MR. MacDONALD:** It's possible.

23 **MR. DUMAIS:** It's possible, but you don't
24 have any kind of recollection of that?

25 **MR. MacDONALD:** There was a well-worn path

1 to the courthouse from that date on.

2 **MR. DUMAIS:** All right.

3 Now, we know that the matter was completed
4 with Justice Chilcott's staying of all charges on May 13th,
5 2002. So between the date that the charges were committed
6 to trial, October 24th, 97 and May 13th, 2002, what contacts
7 or communications did you have with the investigators or
8 with the Crown's office on when the matter would proceed to
9 trial?

10 **MR. MacDONALD:** Very minimal. The contacts
11 were at the appearances, some 40 appearances over the next
12 few years from the date of November 5th to the date of May
13 2002.

14 **MR. DUMAIS:** All right.

15 So is it fair to say that in the normal
16 course, you would find out when the appearance was? You
17 would show up there, and when you would do so, you would
18 have a conversation with either the investigators or the
19 Crown and they would give you an update as to where they
20 were?

21 **MR. MacDONALD:** That's correct.

22 **MR. DUMAIS:** Okay. And do you recall
23 additional victims being added to your proceeding?

24 **MR. MacDONALD:** Yes.

25 **MR. DUMAIS:** All right.

1 Do you recall any discussion with either the
2 investigators or with the Crown's office as to where they
3 were going with that?

4 **MR. MacDONALD:** There may have been a
5 meeting with the Crown to try to explain the reasoning
6 behind joining the charges. Is that how you want to put
7 it?

8 **MR. DUMAIS:** Yes.

9 Do you recall any specifics of that meeting
10 or what they were telling you?

11 **MR. MacDONALD:** Not really.

12 **MR. DUMAIS:** All right.

13 At that time, John, did you have a position
14 with respect to that? Were you welcoming additional counts
15 to be added to your information?

16 **MR. MacDONALD:** I felt as if my opinion
17 wasn't welcomed.

18 Do you understand that?

19 **MR. DUMAIS:** Yes.

20 You ---

21 **MR. MacDONALD:** That my opinion would not
22 have mattered.

23 **MR. DUMAIS:** All right.

24 **THE COMMISSIONER:** All right.

25 But did you vocalize it? Did you tell them,

1 "Listen ---

2 MR. MacDONALD: Did I ask why?

3 THE COMMISSIONER: Yes.

4 MR. MacDONALD: Yes.

5 THE COMMISSIONER: Okay. Did you get an
6 answer?

7 MR. MacDONALD: Satisfactory?

8 THE COMMISSIONER: Did you get an answer?

9 MR. MacDONALD: Probably.

10 THE COMMISSIONER: What was it?

11 MR. MacDONALD: I'm not sure.

12 THE COMMISSIONER: Were you satisfied with
13 it?

14 MR. MacDONALD: No.

15 THE COMMISSIONER: Why not?

16 MR. MacDONALD: When it leaves a sick
17 feeling in the ---

18 MR. DUMAIS: Now ---

19 THE COMMISSIONER: I'm sorry; just a second.

20 MR. DUMAIS: Sorry, John.

21 MR. MacDONALD: When things leave a sick
22 feeling in the pit of your gut, something is not right.

23 THE COMMISSIONER: M'hm.

24 MR. DUMAIS: I understand, John, that at one
25 point in time Mr. Pelletier stopped being involved with

1 your case?

2 MR. MacDONALD: Yes.

3 MR. DUMAIS: So he would have attended at
4 the preliminary inquiry? He would have been present at the
5 committal, but at one point in time was taken off the case
6 or left the case. What do you know about that?

7 MR. MacDONALD: I didn't hear through him.
8 I heard somehow that he had stepped aside for a conflict of
9 interest.

10 MR. DUMAIS: All right.

11 And do you recall when that would have been?
12 If we're looking at the committal for trial occurring in
13 the fall of 1997, when would have the change occurred?

14 MR. MacDONALD: I'm not sure, but I would
15 like to find out.

16 MR. DUMAIS: Okay. So is it fair to say,
17 John, that for a certain period of time there was
18 appearances, adjourning the matter from time to time and
19 that Robert Pelletier would have appeared on a number of
20 those occasions, but at one point in time it was someone
21 else. Is that ---

22 MR. MacDONALD: That's correct.

23 MR. DUMAIS: All right.

24 And do you recall who replaced Robert?

25 MR. MacDONALD: Shelley Hallett.

1 **MR. DUMAIS:** And did you ever have the
2 occasion to meet with her?

3 **MR. MacDONALD:** Yes.

4 **MR. DUMAIS:** Can you give us a sense of when
5 that would have happened?

6 **MR. MacDONALD:** I can't recall.

7 **MR. DUMAIS:** All right.

8 And would that meeting with Shelley Hallett
9 coincide with Mr. Pelletier ---

10 **MR. MacDONALD:** Not showing?

11 **MR. DUMAIS:** Yes.

12 **MR. MacDONALD:** You know, somewhere there
13 was a transition.

14 **MR. DUMAIS:** Okay. Now, do you recall
15 anything from that meeting with Shelley Hallett as to what
16 was going on or where they were going?

17 **MR. MacDONALD:** No, nothing outstanding. I
18 think more of an introductory on now, here, type of
19 meeting.

20 **MR. DUMAIS:** Okay. And do you think that
21 would have been one of those meetings after court
22 appearances or would that have ---

23 **MR. MacDONALD:** No, we were called to the
24 Long Sault Detachment of the OPP by Joe Dupuis.

25 **MR. DUMAIS:** Okay. Did you, at that

1 meeting, go through your evidence or was there any
2 discussions with respect to your evidence?

3 **MR. MacDONALD:** No.

4 **MR. DUMAIS:** Okay. And do you recall any
5 discussions at that point in time about having other
6 alleged victims added on to ---

7 **MR. MacDONALD:** I can't recall. Like I say,
8 it was more of an introductory meeting.

9 **MR. DUMAIS:** Okay. Do you recall at all any
10 discussions with respect to the effect of we need to
11 complete the preliminary inquiry on these other alleged
12 victims before we can proceed to trial on yours?

13 **MR. MacDONALD:** I can't recall.

14 **MR. DUMAIS:** The fact that Mr. Pelletier
15 finds himself in a conflict at one point in time and the
16 fact that he is then replaced, was that a concern for you?

17 **MR. MacDONALD:** Then? No.

18 **MR. DUMAIS:** It wasn't a concern then. It's
19 a concern for you now?

20 **MR. MacDONALD:** Yes.

21 **MR. DUMAIS:** What's your concern, John?

22 **MR. MacDONALD:** I've recently read some
23 correspondence that shows that he was aware that there may
24 be a conflict of interest as early as February 1997.

25 **MR. DUMAIS:** So you're indicating that you

1 now believe today that perhaps there was a conflict prior
2 to your giving evidence at the preliminary inquiry?

3 **MR. MacDONALD:** I believe the date of the
4 correspondence was February 27th, 1997.

5 **MR. DUMAIS:** Okay. And ---

6 **MS. McINTOSH:** Mr. Commissioner, I wonder if
7 could speak to this?

8 **THE COMMISSIONER:** Yes.

9 **MS. McINTOSH:** The summary of anticipated
10 evidence that I received says nothing about this, and I did
11 ask my friend for particulars and I got nothing concerning
12 this in the particulars. I have no idea what
13 correspondence is being referred to and I've had no
14 opportunity to canvass this with the people involved, and
15 I'm a bit concerned about this coming out at this late
16 juncture.

17 **MR. DUMAIS:** Well, I mean, I think it's
18 fair, Commissioner. Perhaps it's an appropriate time for
19 the morning break and maybe we can canvass with Mr. -- I
20 can canvass that with Mr. MacDonald and find out what the
21 said correspondence is referring to.

22 **THE COMMISSIONER:** All right.

23 So why don't we take the morning break and
24 we'll come back later.

25 **THE REGISTRAR:** Order; all rise. À l'ordre;

1 veuillez vous lever.

2 --- Upon recessing at 10:47 a.m./

3 L'audience est suspendue à 10h47

4 --- Upon resuming at 11:36 a.m./

5 L'audience est reprise à 11h36

6 **THE REGISTRAR:** This hearing of the Cornwall
7 Public Inquiry is now in session.

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you.

10 Now that we're back on the webcast I'd like
11 just to advise those on what proceeded -- what went on in
12 the in-camera hearing. And basically it was simply to
13 indicate the names that were subject to a non-publication
14 ban that were found in the transcripts of criminal
15 proceedings. We identified those names. We indicated
16 certain monikers in case folks wanted to use those names to
17 cross-examine. And accordingly, for the public
18 consumption, that there is a ban on publication of certain
19 names contained in Exhibit numbers 224, 225, 226 and 227.

20 Thank you.

21 **JOHN DAVID MacDONALD, Resumed:**

22 **---EXAMINATION-IN-CHIEF BY/INTERROGATOIRE-EN-CHEF PAR MR.**
23 **DUMAIS (cont'd/suite) :**

24 **MR. DUMAIS:** Now, John, we've located the
25 correspondence, and this is a document that had been

1 identified as being potentially cross-documents that two of
2 the parties may want to use in cross-examination, and those
3 documents had been put to Mr. MacDonald before him
4 providing evidence. That's why he has knowledge of those
5 documents.

6 It is Doc Number 113942, Tab 27, Madam
7 Clerk.

8 So it's a document which is a memorandum to
9 ---

10 ---EXHIBIT NO. /PIÈCE NO P-228:

11 (113942) Memo from Robert Pelletier to Mr.
12 Peter Griffiths - April 2, 1997

13 **THE COMMISSIONER:** Is it going to be an
14 exhibit?

15 **MR. DUMAIS:** I think we're going to file it,
16 Commissioner.

17 **THE COMMISSIONER:** All right.

18 **MR. DUMAIS:** I've had some discussion with
19 Ms. McIntosh and she may wish to address other portions of
20 the memo and we need to identify the date as well.

21 **THE COMMISSIONER:** All right.

22 But are there any confidentiality issues
23 here?

24 **MR. DUMAIS:** There are, Commissioner. The
25 names that we have just identified in the in-camera hearing

1 also appear in this document.

2 **THE COMMISSIONER:** All right.

3 But as we discussed with Mr. Cipriano, does
4 that mean that they necessarily have to be ---

5 **MR. DUMAIS:** I don't propose to identify
6 those names. I don't propose to refer to them. We can
7 keep the webcast on.

8 **THE COMMISSIONER:** Right. But is there
9 going to be -- can the media take this document, look at
10 it, and publish the contents of this document? That's the
11 issue.

12 **MR. DUMAIS:** As far as I can see,
13 Commissioner, this document makes reference to the criminal
14 proceedings and the victims in those criminal proceedings
15 and identifies those victims, and a ban protects the names
16 and identifiers and that would fall into that category. So
17 it's my submission that that ban would apply to this
18 document as well, although I do admit that that's
19 debatable.

20 **THE COMMISSIONER:** Well, all right, let's --
21 well, Mr. Lee, I think Mr. Manson might take offence if you
22 ---

23 **MR. LEE:** I'm not making submissions at this
24 point. I'm just pointing out the fact that there are names
25 in this document of victims of abuse who were not named in

1 the preliminary inquiry transcript. So we now have
2 monikers set out for some of the victims named in this
3 document but not others, from my very quick scan of it;
4 page 8 of the document as an example.

5 **THE COMMISSIONER:** So what you're telling me
6 is that there are other people who may not be subject
7 matter to a subject of a non-publication ban that you would
8 want to have a non-publication ban for?

9 **MR. LEE:** I am just looking at this document
10 for the first time, but on page 8, as an example, we now
11 have a moniker for the person listed at number one and the
12 person listed at number four but not for the persons listed
13 at numbers two or three.

14 **THE COMMISSIONER:** Okay. But just a second
15 now. Do we -- and forgive my memory, but do two and three,
16 do they fall within the category of people that we should
17 consider a non-publication ban for?

18 **MR. LEE:** I can advise you that numbers two,
19 three and four on that list are all my clients.

20 **THE COMMISSIONER:** Yes.

21 **MR. LEE:** What is not clear and what I have
22 written to Commission counsel repeatedly and have yet to
23 receive a response on is whether or not they are going to
24 be called to testify at this Inquiry.

25 My clients cannot properly instruct me on

1 whether or not they wish to ask for confidentiality
2 measures unless -- some of my clients, as an example, have
3 said to me "If I'm going to be called I want to do it
4 publicly. I want to do it open absolutely. My name should
5 be out there. If I'm not going to be called I may change
6 my mind on that." And I don't know if those people are
7 going to be called or not. So at this point I would ask
8 that there just be a publication ban on those names and
9 just the names.

10 And if Commission counsel would like to give
11 me an answer to my letters, then I can get instructions
12 from my clients.

13 **THE COMMISSIONER:** That was a little slap
14 there, Mr. ---

15 **MR. DUMAIS:** Yes, and I'm tempted to
16 respond.

17 **THE COMMISSIONER:** Well, how does it go?
18 Sometimes a gentleman is better not to tell. And perhaps
19 you can have a -- well, I'll leave that up to you if you
20 want to do it now, but perhaps a gentlemanly discussion on
21 the way out the back door?

22 **MR. DUMAIS:** Perhaps that would be more
23 appropriate. I didn't canvass that with Mr. Spice who has
24 spoken to the other victims that are Mr. Lee's clients and,
25 I mean, we're still concerned whether or not we'll be

1 calling them. But as far as we know, they have not
2 requested that there be a ban on the publication of their
3 names. Mr. Spice is nodding.

4 **THE COMMISSIONER:** All right.

5 So we're back to -- we have this document,
6 right? We just want to cross-examine this gentleman and
7 get on with it.

8 So what do you want me to do with this
9 document? So it's Exhibit 228.

10 **MR. DUMAIS:** It's Exhibit 228. I think that
11 the ban that you've previously imposed on the names of the
12 victims that form part of the Justice Chilcott order would
13 be protected in this document as well. We haven't heard
14 submissions from everyone on that. That's my belief and my
15 submission.

16 **THE COMMISSIONER:** Well, just a second.
17 Where is Justice Chilcott's decision? What date is Justice
18 Chilcott's decision? You see, I don't know about that
19 because the letter is dated April 2nd, 1997. The decision
20 is in 2002. So I could see if you're saying "This
21 gentleman is talking about the Chilcott decision and it's
22 intertwined."

23 **MR. DUMAIS:** But we're okay, Commissioner,
24 because that document followed the preliminary inquiry
25 which was February 24th, 1997.

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

2 **MR. DUMAIS:** And at that time there was a
3 publication ban, a preliminary inquiry publication ban. So
4 those names were protected during that whole period of time
5 until Justice Chilcott says "Well, now I am imposing a
6 486(3) ban."

7 **THE COMMISSIONER:** All right.

8 Does anybody have any objections that the
9 names contained in Exhibit 228 as they pertain to the names
10 that we have listed out of Mr. Justice Chilcott's decision
11 which we have monikers for, C-2 through to C-8, that that
12 ban apply to this document? Does anybody have any concerns
13 about that, any comments?

14 Mr. Sherriff-Scott I see is ---

15 **MR. SHERRIFF-SCOTT:** Not about that but
16 about the document, Commissioner. I'll wait until this
17 passes if that's acceptable?

18 **THE COMMISSIONER:** Okay. So the publication
19 ban will be extended to this document.

20 Now, Mr. Lee's clients, on the one hand,
21 after his comments about Commission counsel, indicates that
22 his clients are saying "They don't know what they want,
23 Commissioner". I understand that from our investigator,
24 your investigators and Mr. Spice's indicated they haven't
25 really mentioned anything about that.

1 So what do you want me to do?

2 **MR. DUMAIS:** Does Mr. Lee still maintain his
3 position that a ban on those names should be imposed? And
4 if -- I mean, it's a different argument. The previous
5 argument I made was because there is an existing ---

6 **THE COMMISSIONER:** No, I understand that.
7 This is going back to the argument of victims who want to
8 keep their name ---

9 **MR. LEE:** I agree, this is a different
10 argument and what I can tell you is I don't know if they
11 want to keep those names -- keep their names in or out.
12 I'm telling you for these three people, I think they fall
13 in the category of persons who, because they don't have the
14 full information, are not able to instruct me on whether or
15 not I should be moving for a publication ban or not. Until
16 they know whether they are going to be called, they're
17 telling me that we can't decide.

18 **THE COMMISSIONER:** Very well. Now, how do
19 we get those names on the record?

20 All right. We are going to indicate that --
21 it's very simple -- with respect to Exhibit 228, I'm going
22 to put a temporary ban on the names of three people. Is
23 that the three people you want?

24 **MR. LEE:** That's correct.

25 **THE COMMISSIONER:** All right.

1 And they're found on page 8 of that document
2 and they're numbered 2, 3 and 4 in the list of four people.
3 And, if necessary, we'll go into an in camera or non-
4 published session to name those, but let's get on with it.

5 **MR. DUMAIS:** Thank you.

6 **MR. SHERRIFF-SCOTT:** Sorry, Commissioner --
7 -

8 **THE COMMISSIONER:** Yes.

9 **MR. SHERRIFF-SCOTT:** I don't mean to
10 protract this difficult process on this document. The
11 document contains, sir, canvassing of allegations against
12 some of my clients. I wrote to Mr. Dumais about this some
13 many weeks ago. And expressed concern about the potential
14 for bringing a publication ban motion in connection with
15 it. And the resolution of that was that this wasn't going
16 to be entered as an exhibit, so I'm surprised to see this
17 now. So I don't want to obstruct what you're doing here.
18 I know this is taking too much time.

19 The concern I have is what's at page 5. It
20 refers to the former Bishop. And ---

21 **THE COMMISSIONER:** Just a second, page 5?

22 **MR. SHERRIFF-SCOTT:** Yes, sir.

23 **THE COMMISSIONER:** Where?

24 **MR. SHERRIFF-SCOTT:** You see the numbers 1
25 to 6 down towards the lower third of the page?

1 **THE COMMISSIONER:** Yes.

2 **MR. SHERRIFF-SCOTT:** And the first name.

3 There is a category of people, you'll
4 recall, that I've alerted the Commission to that -- in
5 connection with whom I'd be bringing subsequent
6 applications. This document arose. I had correspondence
7 with Ms. McIntosh and my friend.

8 The resolution was, as I understood, this
9 would not be an exhibit at this time.

10 **THE COMMISSIONER:** And that's fair.

11 **MR. SHERRIFF-SCOTT:** And so I decline to --

12 -

13 **THE COMMISSIONER:** No, no, no. And that's
14 fair. That's fair.

15 So now, regardless of the merits of your
16 argument ---

17 **MR. SHERRIFF-SCOTT:** Yes, sir.

18 **THE COMMISSIONER:** --- all right? We have
19 to do something now to get this document.

20 **MR. SHERRIFF-SCOTT:** I would submit a
21 temporary order and we'll deal with it when the issue comes
22 up in a complete way so that we can argue it in an
23 appropriate fashion.

24 **THE COMMISSIONER:** Okay.

25 **MR. SHERRIFF-SCOTT:** Thank you.

1 **THE COMMISSIONER:** Does anyone have any
2 comments in that regard? Mr. Dumais?

3 **MR. DUMAIS:** No comments other than Mr.
4 Sherriff-Scott states the fact correctly. We did have an
5 exchange of correspondence. That document, I believe, as I
6 remember it now, had been initially identified as one of
7 the documents we intended to file after discussion through
8 the three parties that Mr. Sherriff-Scott identified who
9 determined that it is a document more properly put to the
10 response and I did advise that I would not be putting that
11 document in evidence.

12 However, as I indicated earlier, it's a
13 cross document identified by other parties.

14 **THE COMMISSIONER:** Ms. McIntosh, do you have
15 anything to add?

16 **MS. McINTOSH:** I'm sorry that this document
17 has become an issue, Mr. Commissioner. My only concern
18 with the document is to clarify the date that -- it was
19 April the 2nd, 1997 and the time when the information came
20 to the Crown's attention, which I gather from the document
21 was March, the third week in March, and the fact that the
22 issue raised by the Crown was in relation to the laying of
23 charges in respect of complaints by C-7 and C-8.

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

25 **MS. McINTOSH:** And if we can clarify that

1 without the use of the document, I'd be perfectly happy.
2 It seems to me, however, that having been identified by
3 someone else as a potential document for cross-examination,
4 that it made sense for it to go in.

5 But as far as I'm concerned, those are the
6 issues that I'm interested in. I'm not sure who identified
7 it as a document for cross and whether they have other
8 issues.

9 **THE COMMISSIONER:** All right.

10 Well, that's a matter for cross-examination.

11 So with respect to Mr. Sherriff-Scott's
12 argument that, for the time being at least, that number 1
13 on the list on page 5, that there should be an interim ban
14 on publication, I think that his point is well taken
15 because obviously there had been some discussion and some
16 understanding that this matter would not be dealt with at
17 this time. And so this is simply a temporary measure and
18 at some point in time there will be a full discussion of
19 the issue as to whether the identification of the person
20 named number 1 on the list should or should not be
21 published.

22 Accordingly, to err on the side of caution
23 and to ensure that we can keep moving here, there will be
24 an interim ban on publication on the name on page 5, number
25 1.

1 Okay. Can we go now?

2 **MR. DUMAIS:** All right, John. So we did
3 locate a document which is dated April 2nd, 1997 which is a
4 memorandum from Robert Pelletier to you and Peter Griffiths
5 and I'd like to refer you to the second-last page. I'll
6 just wait for Madam Clerk.

7 That would be Bates page number 1069951.
8 And I'll just read you the second-last paragraph, John.

9 "Ultimately, a decision will have to be
10 taken whether or not to recommend
11 further charges against Charles
12 MacDonald in relation to the new
13 complainants C-7 and C-8 in relation to
14 recommend charges..."

15 Sorry, I'll start that over, Commissioner.

16 "Ultimately, a decision will have to be
17 taken whether or not to recommend
18 further charges against Charles
19 MacDonald in relation to the new
20 complainants C-7 and C-8. A decision
21 to recommend charges would lend
22 credence to these individual claims,
23 including the conspiracy theory. A
24 decision not to recommend charges
25 would, in all likelihood, be seen as a

1 latest in the obstructive measures
2 employed by those in authority. It is
3 in this connection that my personal as
4 well as professional affiliations with
5 Murray MacDonald become a complicating
6 factor. Your views in this regard
7 would, of course, be very much
8 appreciated."

9 So is that the information in the passage
10 that you were referring to, John?

11 **MR. MacDONALD:** That's correct.

12 **MR. DUMAIS:** And, Commissioner, I'll let Ms.
13 McIntosh cross-examine on this issue.

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

15 **MR. DUMAIS:** Now, John, I understand that
16 civil legal proceedings were instituted at your
17 instructions by your lawyer at one point in time?

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

19 **MR. DUMAIS:** And I understand as well that
20 you did go through the process of examination for
21 discovery, so questions were put to you by counsel for the
22 Defendants?

23 **MR. MacDONALD:** That's correct.

24 **MR. DUMAIS:** And I understand that at one
25 point in time, Mr. Geoffrey was acting for you as counsel

1 and that changed at one point in time as well?

2 **MR. MacDONALD:** That's correct.

3 **MR. DUMAIS:** And who was the last counsel
4 that was acting for you with respect to those civil
5 proceedings?

6 **MR. MacDONALD:** Alan Rochichaud out of
7 Newmarket, Ontario.

8 **MR. DUMAIS:** Okay. And where are those
9 proceedings at today? Have they been concluded?

10 **MR. MacDONALD:** What's the right term?

11 **MR. DUMAIS:** Are they still ongoing?

12 **MR. MacDONALD:** No.

13 **THE COMMISSIONER:** Settled?

14 **MR. MacDONALD:** No.

15 **THE COMMISSIONER:** Abandoned?

16 **MR. MacDONALD:** I guess that would be about
17 the right term.

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

19 **MR. DUMAIS:** Dismissed?

20 **MR. MacDONALD:** Dismissed, abandoned.

21 Dismissed would be more ---

22 **MR. DUMAIS:** And, what's your understanding
23 as to what happened with those ---

24 **MR. MacDONALD:** It was dismissed on a, I
25 think a Case Management Ruling of some kind.

1 **MR. DUMAIS:** All right. And that knowledge,
2 you would have taken from Mr. Robichaud, is that correct?

3 **MR. MacDONALD:** At some time, he told me
4 that, yes.

5 **MR. DUMAIS:** All right. And when did that
6 happen, do you recall?

7 **MR. MacDONALD:** I can't recall.

8 **MR. DUMAIS:** Okay. Now, the last area John
9 is your Application to the Criminal Injuries Compensation
10 Board, which I understand was filed on January 15th, 1997.
11 And Commissioner, that is Doc. Number 200038.

12 **THE COMMISSIONER:** Yes. This will be
13 exhibit number?

14 **THE REGISTRAR:** Two two nine (229).

15 **THE COMMISSIONER:** Two two nice (229) is a
16 document dated October 27th, 2003, addressed to Mr. Michael
17 Neville from Eileen De Calderon, Chief Executive Officer of
18 the Criminal Injuries Compensation Board, and in that, I
19 guess, is a -- includes a private hearing in the ruling, I
20 guess.

21 **--EXHIBIT NO. /PIÈCE NO P-229:**

22 (200038) MAG Criminal Injuries Compensation
23 Board - Private Hearing - Order - June 16,
24 2003.

25 **MR. DUMAIS:** And Commission, as I - in here

1 this morning, there's an outstanding publication ban order
2 that's in effect with respect to this document, but I
3 understand that what's been provided by the Board, is a
4 redacted copy of the decision. So, I just want to make it
5 clear that the redactions are not -- the Commission's
6 redactions here; they are the redactions to comply with
7 their order.

8 **THE COMMISSIONER:** Very well.

9 **MR. DUMAIS:** And so John, if we'd start
10 firstly with your Application filed with the ---

11 **MR. CIPRIANO:** Just out of an abundance of
12 caution, given the document as stamped under the hearing
13 was closed to the public, it's a private hearing, I'm
14 wondering whether this document should be a "C" exhibit,
15 out of an abundance of caution?

16 **THE COMMISSIONER:** Well no, I thought that -
17 - I don't know, it says here "This satisfies the statutory
18 requirements of both the *Freedom of Information and*
19 *Protection of Privacy Act* and the *Statutory Published*
20 *Procedures Act*". And it's a public ruling.

21 **MR. CIPRIANO:** Well, it's -- I don't know if
22 -- it was a private hearing and I don't if, even the cover
23 letter is marked confidential. I'm just asking under an
24 abundance of caution.

25 **THE COMMISSIONER:** You're the advocate.

1 You're supposed to come and tell me whether or not it is.
2 I mean it's confidential, but somebody has given it up to
3 the Commission.

4 **MR. CIPRIANO:** Yes.

5 **THE COMMISSIONER:** It's now entered an
6 exhibit. I can tell you that, as far as I'm concerned, the
7 hearing may have been closed to the public and there's a
8 publication ban, but unless someone can help me, I would
9 think that the decision is a public document.

10 **MR. CIPRIANO:** I just wanted to raise a
11 concern, if that's your decision, I'll respect that.

12 **THE COMMISSIONER:** Okay.

13 Sorry, Mr. Sherriff-Scott, did you ---

14 **MR. SHERRIFF-SCOTT:** The way I read it, just
15 for the efficacy of the Tribunal here, not to take an oar,
16 is that the cover letter refers to FIPPA and the SPPA, but
17 the document has a stamp of publication ban. I think the
18 simple solution, from a practical point of view, is the two
19 parties here to the hearing, are sitting in the room, one
20 the counsel and the other, Mr. MacDonald, and
21 circumstances, you know they can decide. That will obviate
22 any complexity for the record or difficulty.

23 **THE COMMISSIONER:** Mr. MacDonald? Well,
24 that depends on the ability ---. Do you have any problems
25 with this document being made public?

1 **MR. MacDONALD:** No.

2 **THE COMMISSIONER:** Thank you. And who else
3 was --, but you know I -- well no, there was no lawyer for
4 -- oh, there's a lawyer for Charles MacDonald, yes.

5 **MR. DUMAIS:** Correct, that would be Mr.
6 Cipriano, I guess.

7 **MR. CIPRIANO:** We have no problem with the
8 document being made public.

9 **THE COMMISSIONER:** All right. It's public.

10 **MR. DUMAIS:** Yeah and I -- my understanding
11 of that document, Commissioner, is that publication ban was
12 imposed and I'll get into that with the gentleman as well,
13 to protect the identity of other victims that may revealed,
14 but my understanding is, their redactions do that.

15 **THE COMMISSIONER:** All right.

16 **MR. DUMAIS:** They released the documents in
17 compliance with their order.

18 **THE COMMISSIONER:** Thank you.

19 **MR. DUMAIS:** So John, if we can just start
20 with your Application at the Criminal Injuries Compensation
21 Board, how did that come about?

22 **MR. MacDONALD:** Dave Bough gave me a
23 pamphlet with an application in it, early, one of the times
24 that I met him.

25 **MR. DUMAIS:** So Dave Bough that would be the

1 constable with the Cornwall Police Services?

2 **MR. MacDONALD:** That's correct.

3 **MR. DUMAIS:** And, he would have given you
4 that anywhere between late August to September of '95. Is
5 that --

6 **MR. MacDONALD:** Let's say that. I'm not
7 sure. Some -- early.

8 **MR. DUMAIS:** Okay. And, did you file that
9 document yourself?

10 **MR. MacDONALD:** I did.

11 **MR. DUMAIS:** And, did you prepare that
12 document yourself?

13 **MR. MacDONALD:** I did.

14 **MR. DUMAIS:** And, did you submit any
15 additional documents with your Application?

16 **MR. MacDONALD:** Maybe my statement, I'm not
17 sure. I'm not sure what went in with the Application.

18 **MR. DUMAIS:** Okay. And the date I refer to,
19 John, that it would have been submitted on or about the 15th
20 day of January 1997, does that sound about right to you?

21 **MR. MacDONALD:** I guess so.

22 **MR. DUMAIS:** All right. Now this hearing,
23 and I'm looking at the Exhibit page 2, I don't have a Bates
24 page number for that exhibit, appears to have been heard in
25 Ottawa on June 16th, 2003. Does that date sound correct to

1 you as well?

2 **MR. MacDONALD:** Yes.

3 **MR. DUMAIS:** And, do you have any
4 explanation as to what delayed the hearing of this
5 Application? Was it something that you requested?

6 **MR. MacDONALD:** No.

7 **MR. DUMAIS:** And, between the two dates, so
8 the date that the Application was submitted and the matter
9 was heard, did you, from time to time, have any contacts
10 with any members of the Board?

11 **MR. MacDONALD:** Plenty.

12 **MR. DUMAIS:** And, were some of those
13 discussions regarding when this matter would be heard?

14 **MR. MacDONALD:** Yes.

15 **MR. DUMAIS:** And, well tell us about those
16 discussions, what were they ---

17 **MR. MacDONALD:** I can't really recall, but
18 it just kept getting pushed back and pushed back. There
19 was talk about setting a hearing date for such and such a
20 time and all of a sudden, I think Mr. Neville was the one
21 who kept getting delays of some kind, as the date got
22 closer to a possible hearing date.

23 **MR. DUMAIS:** All right. So, were there
24 actually dates set and then ---

25 **MR. MacDONALD:** Cancelled?

1 **MR. DUMAIS:** Yes.

2 **MR. MacDONALD:** Yes.

3 **MR. DUMAIS:** All right. And you weren't
4 necessarily speaking in person to those adjournments, so
5 you'd be contacted and advised that the date that was ---

6 **MR. MacDONALD:** Often, I would find them out
7 by me making a phone call.

8 **MR. DUMAIS:** So, you ---

9 **MR. MacDONALD:** The initiation came from me,
10 not from them.

11 **MR. DUMAIS:** Okay. So you'd give them a
12 call and confirm that the matter was proceeding on such and
13 such a date and then, you'd be advised that ---

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

15 **MR. DUMAIS:** All right. Were you
16 specifically advised by anyone from Mr. Neville's office
17 that these adjournments would be requested or ---

18 **MR. MacDONALD:** No.

19 **MR. DUMAIS:** All right. Now, I understand
20 that the respondent here, filed some documents, filed a
21 number of documents and it makes reference here to the
22 applicant, that would be you John, "Applicant's Police
23 Statement, Transcripts from the Civil and Criminal
24 Proceeding", as well as "Witness Statements". It appears
25 that these documents were filed by, and it's referred to in

1 here, as "The Alleged Offender's Counsel", and that the
2 Board would have offered you, to provide you with a copy of
3 those statements and that you had declined. Do you recall
4 that conversation with them?

5 **MR. MacDONALD:** I declined?

6 **MR. DUMAIS:** To receive a copy of the
7 documents that the respondent would have filed?

8 **MR. MacDONALD:** I don't remember declining.
9 Now, the only reason I might decline, is because I already
10 had them in my possession.

11 **MR. DUMAIS:** Okay, but perhaps the decision
12 might be helpful and I'm just reading from the 5th line from
13 the bottom, the sentence starts with "The Board", I just
14 want to make sure that that's your recollection. So, "The
15 Board offered to send the Applicant a complete copy..."

16 **THE COMMISSIONER:** Hang on, Mr. Dumais.

17 **MR. DUMAIS:** Sorry.

18 **THE COMMISSIONER:** You've got to wait until
19 he finds where you're going.

20 **MR. DUMAIS:** Okay.

21 **THE COMMISSIONER:** And the clerk can put it
22 up on the ---

23 **MR. DUMAIS:** Okay.

24 **THE COMMISSIONER:** Stating, he had likely
25 seen all of the information before.

1 **MR. DUMAIS:** Correct, so does that make
2 sense?

3 **MR. MacDONALD:** That makes sense.

4 **MR. DUMAIS:** All right. Now, I understand
5 John that you had brought with you two support persons at
6 that Application in 2003. Is that correct?

7 **MR. MacDONALD:** That's correct.

8 **MR. DUMAIS:** And, that you had requested
9 that these two person, friends of yours I'm assuming, be
10 permitted to stay during the proceedings, is that correct?

11 **MR. MacDONALD:** That's correct.

12 **MR. DUMAIS:** And, I understand that there
13 was an objection to your request and that one of these two
14 support persons was asked to be removed. Is that correct?

15 **MR. MacDONALD:** That's correct.

16 **MR. DUMAIS:** All right. And so that's
17 someone that you had requested be there to assist you?

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

19 **MR. DUMAIS:** All right. And, who what that
20 person, John?

21 **MR. MacDONALD:** Dick Nadeau.

22 **MR. DUMAIS:** Now, there was an Application,
23 and I'm not sure from reading the decision John, where the
24 Application for the publication ban came from the
25 respondent or came from the Panel, or -- what do you

1 recall, who was requesting the publication ban here?

2 MR. MacDONALD: I think the Panel.

3 MR. DUMAIS: And, you took a position on
4 that publication ban?

5 MR. MacDONALD: That's correct.

6 MR. DUMAIS: And, what was your position at
7 that time?

8 MR. MacDONALD: That, as always, any
9 publication ban be lifted concerning me.

10 MR. DUMAIS: All right. And you've been
11 consistent with that position, throughout all of your court
12 proceedings?

13 MR. MacDONALD: That's correct.

14 MR. DUMAIS: And, I'm just going to read you
15 the Panel's decision on that and that's the four last lines
16 of page 2, as it appears in that document.

17 "In the present case before the Board,
18 the Panel took into consideration the
19 sensitive nature of the claim, also the
20 strong likelihood that the identities
21 of other complainants would be revealed
22 during the course of the hearing, whose
23 identities would not be protected, if
24 the publication ban were to be lifted."

25 So, and one of the other complainants that

1 they are making reference to in this decision, was with you
2 in the Hearing's room John, is that correct?

3 **MR. MacDONALD:** That's correct.

4 **MR. DUMAIS:** You think members of the Panel
5 knew that? Was that pointed out to them, or did it just
6 never come up?

7 **MR. MacDONALD:** I don't know.

8 **MR. DUMAIS:** Okay. Now, as far as I can see
9 John, you filed, or a number of documents were filed on
10 your behalf and it appears that there would have been the
11 August 11th, 1995 correspondence to Father Maloney, the
12 August 19th, 1995 statement and the September 28th, 1995
13 statement.

14 I understand that in introducing these
15 documents you would have taken the stand. Is that correct?
16 You gave viva voce evidence?

17 **MR. MacDONALD:** It might have been sent to
18 them some time along the way.

19 **MR. DUMAIS:** Okay. Did you take the stand
20 and actually give evidence yourself?

21 **MR. MacDONALD:** Yes.

22 **MR. DUMAIS:** All right.

23 And were you represented by counsel as you
24 did so?

25 **MR. MacDONALD:** No.

1 **MR. DUMAIS:** All right.

2 And is there an assigned counsel at this
3 Board that assists applicants in the hearings?

4 **MR. MacDONALD:** Not that I'm aware of.

5 **MR. DUMAIS:** Okay. So there was certainly
6 no one there on that day?

7 **MR. MacDONALD:** No.

8 **MR. DUMAIS:** All right.

9 And Father Charlie MacDonald was present
10 during that hearing. Is that correct?

11 **MR. MacDONALD:** That's correct.

12 **MR. DUMAIS:** And he was present with Mr.
13 Neville, his counsel?

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

15 **MR. DUMAIS:** All right.

16 And Mr. Neville did cross-examine you on
17 your evidence during that hearing. Is that correct?

18 **MR. MacDONALD:** Indeed.

19 **MR. DUMAIS:** All right.

20 Now, I understand there were a number of
21 other statements that were filed and one of those
22 statements is something that we referred to yesterday was
23 your mother's statement. As well, there was a statement
24 that had been given at one point in time by Aza Morissette,
25 and I believe there's a statement that was given in the

1 criminal proceedings. And those were filed in these
2 proceedings.

3 Were either your mother or Ms. Morissette
4 present during the ---

5 **MR. MacDONALD:** No.

6 **MR. DUMAIS:** --- the hearing?

7 **MR. MacDONALD:** No.

8 **MR. DUMAIS:** All right.

9 So there is certainly no cross-examination
10 of either by yourself?

11 **MR. MacDONALD:** That's correct.

12 **MR. DUMAIS:** Now, I understand as well,
13 John, that a police constable, a retired police constable
14 at that time, did appear to give evidence as well?

15 **MR. MacDONALD:** That's correct.

16 **MR. DUMAIS:** And at that time that would
17 have been Joe Dupuis. Is that ---

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

19 **MR. DUMAIS:** And was he there at your
20 request or is that something that you had asked him to
21 attend or did you just show up there and find out he was
22 there?

23 **MR. MacDONALD:** No, I found out he was going
24 to be there. I didn't call to request him there. I talked
25 to him a couple times over the years and I think at one

1 point he told me "I'm going to be up there." I see later
2 on that somebody requested him up there, but it wasn't upon
3 my request.

4 MR. DUMAIS: All right.

5 So there's no discussions as to what
6 evidence he would give on that day or ---

7 MR. MacDONALD: That's correct.

8 MR. DUMAIS: --- any preparation?

9 MR. MacDONALD: That's correct.

10 MR. DUMAIS: Now, I understand that as well
11 the alleged offender did give evidence as well in these
12 proceedings?

13 MR. MacDONALD: That's correct.

14 MR. DUMAIS: And you were given the option
15 to cross-examine him?

16 MR. MacDONALD: That's correct.

17 MR. DUMAIS: Do you recall whether or not
18 members of the panel asked questions themselves to either
19 you or to ---

20 MR. MacDONALD: Yes. Yes, they did.

21 MR. DUMAIS: All right.

22 Now, I'm looking at page 19 of the decision.
23 There are only two lines that are left from that page,
24 John. It reads:

25 "The disposition of criminal charges:

1 As previously indicated, all charges
2 against the alleged offender, including
3 those in relation to the Applicant,
4 were either withdrawn or stayed."

5 Certainly the charges that involved you,
6 John, were stayed. Is that correct?

7 **MR. MacDONALD:** By this point, yes.

8 **MR. DUMAIS:** All right.

9 And ultimately the Board declined to give
10 you any compensation with respect to these allegations?

11 **MR. MacDONALD:** That's correct.

12 **MR. DUMAIS:** All right.

13 So John, you've gone through a number of
14 court proceedings, a number of events from the time you
15 returned to Cornwall during the summer of 1995. Can you
16 just tell us about some of the affects the whole process
17 has had on you or your family and whether or not you have
18 any comments or any recommendations that the Commissioner
19 may want to consider.

20 **MR. MacDONALD:** Can I have time to think
21 about that?

22 **THE COMMISSIONER:** Sure.

23 **MR. MacDONALD:** That's a big question.

24 **THE COMMISSIONER:** Sure.

25 **MR. MacDONALD:** That's a great big question

1 but something that's not off the cuff.

2 **THE COMMISSIONER:** How about over the lunch
3 period?

4 **MR. MacDONALD:** Absolutely.

5 **THE COMMISSIONER:** Yes?

6 **MR. MacDONALD:** Yes.

7 **THE COMMISSIONER:** Why don't we come back at
8 quarter to two?

9 **MR. MacDONALD:** Sounds good.

10 **THE COMMISSIONER:** Before we go, you might
11 want to canvas counsel as to cross-examination, the times,
12 so that we can look at scheduling.

13 **MR. DUMAIS:** All right.

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

16 The hearing will resume at 1:45.

17 --- Upon recessing at 12:23 p.m./

18 L'audience est suspendue à 12h23

19 --- Upon resuming at 1:54 p.m./

20 L'audience est reprise à 13h54

21 **THE REGISTRAR:** This hearing of the Cornwall
22 Public Inquiry is now in session.

23 Please be seated. Veuillez vous asseoir.

24 **THE COMMISSIONER:** Thank you.

25 Good afternoon, Mr. Dumais.

1 **MR. DUMAIS:** Good afternoon.

2 **JOHN DAVID MacDONALD, Resumed:**

3 ~~---~~**EXAMINATION-IN-CHEIF BY/INTERROGATOIRE-EN-CHEF PAR MR.**
4 **DUMAIS (cont'd/suite):**

5 **MR. DUMAIS:** Just finishing up, John?

6 **MR. MacDONALD:** Yes. Okay.

7 **MR. DUMAIS:** So right before we left or
8 broke for lunch, John, I had just made the comment that you
9 had been involved in criminal proceedings, civil
10 proceedings, other types of proceedings, and a number of
11 events since you came back to Cornwall in the summer of
12 1995.

13 I just wanted, firstly, that you indicate to
14 us how that has affected you, and secondly, whether or not
15 you have any recommendations for the Commissioner to
16 consider.

17 **MR. MacDONALD:** I started writing a couple
18 notes, and this is no tiny little answer, you know, and I
19 could go on for ever, and ever, and ever. But I'll just
20 read what I wrote, just a couple things I wrote down. Like
21 I say, it was a full question.

22 You asked me about recommendations that I
23 may suggest concerning institutions and their responses.
24 The problem with the question is the answer is ever
25 evolving.

1 Here I sit today in the middle of an
2 institutional response to the various institutions that I
3 became involved in over the last 10 years. It would be
4 kind of like asking a man who's sitting in the middle of a
5 manure pile does it stink. Of course it stinks. He may
6 get up and walk away from that manure pile but he's still
7 going to be covered in manure and it's still going to
8 stink. It's not until a good cleansing can it stop to
9 stink. Is that cleansing going to come here? I don't
10 know. I don't know.

11 Have I been damaged? Yes. Beyond repair?
12 No. All I looked for from the start of this whole mess was
13 compassion, help. That's all I wanted. I'm just starting
14 to get there. And not through an institution, I had to
15 find it on my own. It's not right. It's not right.
16 Somebody's got to be there. I don't know who, but
17 somebody's got to be there, somebody that we can go to and
18 say "Hey, here's what happened to me."

19 Sitting today would I do the same thing I
20 did 10 years ago? No. I wouldn't want anybody to go
21 through what we went through for the last 10 years.

22 There was no vengeance in my heart when I
23 started. A few years ago I might have wanted vengeance.

24 That's slowly dissipating, because of the
25 help that I'm getting.

1 I've been blessed, really blessed, over the
2 last 10 years with some of the people that I've met. I've
3 been blessed with these angels, who are watching over me,
4 being put in my way at the right time, just when I need
5 them.

6 I don't think any institution can provide
7 that type of help.

8 So, I'm going to leave it at that and
9 hopefully, that answer will change.

10 **THE COMMISSIONER:** Well, can I ask you, Mr.
11 MacDonald, you say that there is a need for a cleansing and
12 you don't know if this Inquiry will do it. Can you help me
13 and give me some indication of what you would like to see
14 out of it?

15 **MR. MacDONALD:** Really, I don't know. And
16 that's what I say, by sitting in the middle of it; it's
17 hard to see the end.

18 **THE COMMISSIONER:** All right.

19 **MR. MacDONALD:** But thanks for letting me
20 say that.

21 **THE COMMISSIONER:** All right.

22 **MR. DUMAIS:** Your point is taken, John.

23 These are all the questions I have for you.
24 My friends may have some questions.

25 **MR. MacDONALD:** Thanks Pierre.

1 **THE COMMISSIONER:** Thank you.

2 So Mr. Manson will be first. I don't know
3 if you have a list of the names, Mr. MacDonald?

4 **MR. MacDONALD:** I do.

5 **THE COMMISSIONER:** But the lawyers normally
6 come up and introduced themselves and tell you, who they
7 act for, so.

8 **MR. MacDONALD:** Okay. Thank you.

9 **THE COMMISSIONER:** All right.

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

11 **MANSON:**

12 **MR. MANSON:** Try to organize this mass of
13 paper.

14 My name is Allan Manson, and I'm one of the
15 lawyers for the Citizens for Community Renewal. I just
16 wanted to agree with you that there's too few angels in the
17 world.

18 But I also have some questions for you.

19 Now, I'm not going to ask you anything about
20 events that happened while you were an altar boy. I want
21 to confirm some of the factual background of other things
22 and I'm going to put most of it to you as facts, and you
23 can tell me whether you agree with me or whether you
24 disagree with me, or maybe you don't remember. And if you
25 don't remember, I might be able to help you; I might be

1 able to show you a document to refresh your memory.

2 The first thing I'd like to start with, Mr.
3 Dumais asked you about the hearing with the Criminal
4 Injuries Crime Compensation Board and reminded you that you
5 had been cross-examined by Mr. Neville, and you said
6 "indeed". I want to take you back to 1997, February 24th,
7 when you were cross-examined by Mr. Neville. Do you recall
8 that?

9 **MR. MacDONALD:** Indeed.

10 **MR. MANSON:** So this was in front of Justice
11 Dempsey, this is at the beginning of the Preliminary
12 Inquiry. You've got that in your mind now?

13 **MR. MacDONALD:** Correct.

14 **MR. MANSON:** Is it fair to say that it was
15 grueling cross-examination, with lots of challenges?

16 **MR. MacDONALD:** Yes.

17 **MR. MANSON:** At times, it was like you were
18 sitting in the Witness Stand and he was at the Counsel
19 Table taking shots at you with a rifle?

20 **MR. MacDONALD:** Yes.

21 **MR. MANSON:** And his rifle had lots of
22 ammunition?

23 **MR. MacDONALD:** There were a lot of shots.

24 **MR. MANSON:** A lot of shots. That's a
25 better way to put it.

1 **MR. MacDONALD:** He used the same bullet,
2 often.

3 **MR. MANSON:** But we'll use your words "the
4 bullets". I want to suggest to you that a lot of those
5 bullets you'd produced yourself?

6 **MR. MacDONALD:** Thank you.

7 **MR. MANSON:** Well, you understand what I
8 mean. A lot of those bullets were your statements of
9 August 11th, 1995, your statement of September 12th, 1995 --

10 **MR. MacDONALD:** I understand.

11 **MR. MANSON:** No, I just want to put that on
12 the record and your statement of September 18th and
13 September 28th, 1995.

14 **MR. MacDONALD:** I understand.

15 **MR. MANSON:** You first contacted the Police,
16 I believe on August 21st, 1991, when you had a conversation
17 with Constable Bough. Is that correct, Mr. MacDonald?

18 **MR. MacDONALD:** Yes.

19 **MR. MANSON:** I said 1995, I believe.

20 **MR. MacDONALD:** I'm sure you did.

21 **MR. MANSON:** And, I believe you told us that
22 he suggested that you take your time and you come in when
23 you're ready?

24 **MR. MacDONALD:** Correct.

25 **MR. MANSON:** He wanted you to be prepared to

1 give your statement at your choosing?

2 MR. MacDONALD: Correct.

3 MR. MANSON: When did you first meet with
4 him, face to face, or did you ever meet with him, face to
5 face?

6 MR. MacDONALD: I met with him face to face,
7 and I'm not sure when.

8 MR. MANSON: Would it be around this --
9 shortly around this time?

10 MR. MacDONALD: It must have been.

11 MR. MANSON: Because you did say he had a
12 number of conversations with you?

13 MR. MacDONALD: Correct.

14 MR. MANSON: But he wasn't pushing you?

15 MR. MacDONALD: No.

16 MR. MANSON: Did he offer you any advice
17 about how to prepare for making your formal statement?

18 MR. MacDONALD: No.

19 MR. MANSON: Yesterday, when Mr. Dumais was
20 questioning you, he was asking you about your letter to
21 Father Maloney on August 11th, and you explained that you
22 were looking for help.

23 MR. MacDONALD: Correct.

24 MR. MANSON: And later you said, basically
25 that you were in pretty rough shape, you were going out of

1 your mind?

2 MR. MacDONALD: Yes.

3 MR. MANSON: How did you feel physically?

4 MR. MacDONALD: Terrible.

5 MR. MANSON: How did you look physically?

6 MR. MacDONALD: Terrible.

7 MR. MANSON: If I bumped into you on the
8 street and didn't know you, would I say "There's a guy in
9 rough shape"?

10 MR. MacDONALD: Tough to say.

11 MR. MANSON: But if I knew you?

12 MR. MacDONALD: If you knew me?

13 MR. MANSON: I'd realize you were in
14 difficulties?

15 MR. MacDONALD: Yes.

16 MR. MANSON: What about if I had a
17 conversation with you, would I realize you were having
18 trouble?

19 MR. MacDONALD: I don't know.

20 MR. MANSON: That's fair.

21 MR. MacDONALD: Depends on how well you knew
22 me.

23 MR. MANSON: And you didn't know Constable
24 Bough before you went to British Columbia?

25 MR. MacDONALD: No.

1 **MR. MANSON:** Did Constable Bough suggest to
2 you that you start collecting all your documents to get
3 ready to make your formal statement?

4 **MR. MacDONALD:** No.

5 **MR. MANSON:** Did he suggest to you that you
6 prepare a chronology?

7 **MR. MacDONALD:** No.

8 **MR. MANSON:** On September 11th, you had a
9 meeting with Mr. Geoffrey.

10 **MR. MacDONALD:** That's correct.

11 **MR. MANSON:** And with another man that's
12 often called D.S.?

13 **MR. MacDONALD:** Correct.

14 **MR. MANSON:** I understand that during that
15 meeting you did, and I don't want to know any of the
16 details, but you did talk about what we might call
17 Incidents 1 and 2?

18 **MR. MacDONALD:** Yes.

19 **MR. MANSON:** Is that correct?

20 **MR. MacDONALD:** Correct.

21 **MR. MANSON:** And that would be with Mr.
22 Geoffrey and with D.S. present?

23 **MR. MacDONALD:** I don't know.

24 **MR. MANSON:** At some point during that
25 meeting you became a bit upset about something and later,

1 when you left, it was understood that you would be
2 preparing a letter or some documentation for Mr. Geoffrey.
3 Correct?

4 **MR. MacDONALD:** Do you know something I
5 don't?

6 **MR. MANSON:** I don't know very much, but I'm
7 referring to a document --

8 **MR. MacDONALD:** Can you repeat the question?

9 **MR. MANSON:** Let me go to one of the
10 exhibits.

11 It's Exhibit 206, Mr. Commissioner?

12 This is the taped interview involving
13 yourself, where Mr. Geoffrey was present and with Tim Smith
14 and Mike Fagan.

15 Just have your indulgence, Mr. Commissioner;
16 I have to find the correct page.

17 It's page 55, Mr. MacDonald, of Exhibit 206.

18 **MR. MacDONALD:** Thank you.

19 **MR. MANSON:** Mr. Geoffrey intercedes in the
20 conversation. If we start at the top, he says:

21 "Just for your information, we talked
22 about the first two; we never talked
23 about the third. Tim:..."

24 -- who I take it is Mr. Smith,

25 "...the third, the one out the Boundary

1 Road.

2 Bryce: That's right.

3 Tim: Okay"

4 and then Bryce says:

5 "Yeah and at the meeting John got upset

6 so I told him 'Don't worry about it.'

7 He indicated he would be writing me a

8 letter. That's the statement you have

9 and also we discussed it at that time."

10 Does that refresh your memory?

11 **MR. MacDONALD:** Okay.

12 **MR. MANSON:** So you agree that -- and I
13 don't want to know what upset you. That's not what I'm
14 getting at. What I'm getting is when you left the meeting
15 with Mr. Geoffrey on September 11th, you had it in your mind
16 that you were going to put something in writing?

17 **MR. MacDONALD:** Correct.

18 **MR. MANSON:** Did Mr. Geoffrey give you any
19 advice about how you should put it in writing, or what you
20 should put in writing?

21 **MR. MacDONALD:** No.

22 **MR. MANSON:** But then, on September 12th, you
23 started putting something in writing, correct?

24 **MR. MacDONALD:** That's correct.

25 **MR. MANSON:** Now, prior to September 12th,

1 you'd met Carson Chisholm, hadn't you?

2 **MR. MacDONALD:** I don't think so.

3 **MR. MANSON:** Well, September 12th is the day
4 when you're in your workshop preparing the first draft of
5 your statement and he comes over?

6 **MR. MacDONALD:** That's correct.

7 **MR. MANSON:** So you must have met before
8 then?

9 **MR. MacDONALD:** I don't know.

10 **MR. MANSON:** Or at least talked to him on
11 the phone before then?

12 **MR. MacDONALD:** Yes.

13 **MR. MANSON:** And you must have known that he
14 was planning to come over to see you that day?

15 **MR. MacDONALD:** I'm sure I did.

16 **MR. MANSON:** And, was it part of the plan
17 that he would take you to the police station?

18 **MR. MacDONALD:** Quite possibly.

19 **MR. MANSON:** When he came to your house you
20 were downstairs in the workshop?

21 **MR. MacDONALD:** Correct.

22 **MR. MANSON:** Did you go up to open the door
23 for him or had you left it open for him?

24 **MR. MacDONALD:** My wife was there.

25 **MR. MANSON:** And she let him in?

1 **MR. MacDONALD:** Yeah, I'm sure.

2 **MR. MANSON:** And he came downstairs, and
3 when he came downstairs you had almost finished writing the
4 September 12th statement?

5 **MR. MacDONALD:** I don't know.

6 **MR. MANSON:** Well, you were engaged in
7 writing it at the time?

8 **MR. MacDONALD:** Correct.

9 **MR. MANSON:** Whether you were almost
10 finished, you were engaged in writing it. And, he started
11 reading the pages, correct?

12 **MR. MacDONALD:** Correct.

13 **MR. MANSON:** What was the first thing he
14 said to you when he came downstairs, other than "Hi, hello"
15 and --

16 **MR. MacDONALD:** I don't know.

17 **MR. MANSON:** Was he surprised that you were
18 preparing the statement?

19 **MR. MacDONALD:** I don't know.

20 **MR. MANSON:** By "I don't know", you mean to
21 say I can't recall?

22 **MR. MacDONALD:** Well, I don't know.

23 **MR. MANSON:** Okay. But you must have had
24 some conversation with him? He doesn't just come
25 downstairs and --

1 MR. MacDONALD: I don't know.

2 MR. MANSON: Did you discuss what you were
3 putting in your statement?

4 MR. MacDONALD: I doubt it.

5 MR. MANSON: While he was reading the pages
6 did he make any comments to you?

7 MR. MacDONALD: I don't know.

8 MR. MANSON: Well, on that one, it must be
9 you can't recall, because --

10 MR. MacDONALD: I don't know.

11 MR. MANSON: Okay. At some point, you leave
12 to go to the police station, correct?

13 MR. MacDONALD: Correct.

14 MR. MANSON: And he, essentially, drags you.
15 Is that correct?

16 MR. MacDONALD: I was easily led.

17 MR. MANSON: But what I'm suggesting is
18 that, in your own mind, you may not have been prepared on
19 September 12th to go have an interview with police officers?

20 MR. MacDONALD: I was easily led.

21 MR. MANSON: Can I, once again, take you
22 back to Exhibit 206, please? If you can look at page 62.

23 "I wanted to see my statement file--"

24 THE COMMISSIONER: Hang on now.

25 MR. MANSON: Right at the bottom of page 62,

1 it says "John".

2 Have you got that Mr. MacDonald?

3 **MR. MacDONALD:** Yes, I do.

4 **MR. MANSON:** "I wanted to see my statement
5 file..."

6 It probably should say "filed" with a "d":

7 "...the statement that I've written and
8 that I felt kind of dragged down there.
9 I don't know if I was ready."

10 Does that capture your recollection of how
11 you felt at the time?

12 **MR. MacDONALD:** Quite possibly, yes.

13 **MR. MANSON:** And on the way down, you and
14 Mr. Chisholm stop somewhere and he made a photocopy of your
15 statement?

16 **MR. MacDONALD:** Yes, he did.

17 **MR. MANSON:** And you knew that he was doing
18 that?

19 **MR. MacDONALD:** Did I know that he was doing
20 that? He probably told me before he got out of the
21 vehicle.

22 **MR. MANSON:** Because he had the statement
23 with him when you got out of the vehicle?

24 **MR. MacDONALD:** Correct.

25 **MR. MANSON:** Had he read it all at that

1 point?

2 MR. MacDONALD: I don't know.

3 MR. MANSON: I understand that when you got
4 to the police station, no one was expecting you? In other
5 words, there wasn't an arranged meeting?

6 MR. MacDONALD: No.

7 MR. MANSON: And as a result, no one really
8 was prepared to take your statement from you?

9 MR. MacDONALD: No.

10 MR. MANSON: So the next part of this
11 September 1995 interaction with the police is your redraft
12 of your statement on September 18th; correct?

13 MR. MacDONALD: Correct.

14 MR. MANSON: And then someone must have
15 arranged a formal meeting with Tim Smith and Mike Fagan,
16 because you meet them on September 28th with your lawyer
17 Bryce Geoffrey; correct?

18 MR. MacDONALD: Correct.

19 MR. MANSON: Do you recall who arranged the
20 meeting?

21 MR. MacDONALD: Probably Tim Smith.

22 MR. MANSON: Now, the first part of this
23 meeting is you reading for the purpose of being taped, your
24 September 18th attempt; correct?

25 MR. MacDONALD: Correct.

1 **MR. MANSON:** And then after that I believe
2 you also read the August 11th letter to Father Maloney for
3 the purpose of being taped?

4 **MR. MacDONALD:** Correct.

5 **MR. MANSON:** And then after that there's
6 some conversation, mostly questions from Tim Smith;
7 correct?

8 **MR. MacDONALD:** Correct.

9 **MR. MANSON:** If we could look at Exhibit 206
10 again, please? At page 60, about halfway down, Tim Smith
11 ends a long monologue or a long introduction, with this
12 sentence:

13 "I would ask you...that I'm not telling
14 you not to speak to the press, but if
15 you do, it does cause us some
16 difficulty in the investigation."

17 And your answer was:

18 "I have no need to."

19 **MR. MacDONALD:** Correct.

20 **MR. MANSON:** Now, was this before or after
21 you spoke with Mr. Greenwell? You can -- please check your
22 notes.

23 **(SHORT PAUSE/COURTE PAUSE)**

24 **MR. MANSON:** If you look to November 23rd,
25 there's a note of a conversation with Tim Smith.

1 **MR. MacDONALD:** I see that.

2 **MR. MANSON:** Would that have been around the
3 time that you spoke with Mr. Greenwell?

4 **MR. MacDONALD:** I don't know. I was sure it
5 was in the notes here.

6 **(SHORT PAUSE/COURTE PAUSE)**

7 **MR. MANSON:** I don't see a specific
8 reference.

9 **MR. MacDONALD:** Neither do I.

10 **MR. MANSON:** Well, let's leave that for a
11 minute because I want to ask you about another conversation
12 with Tim Smith.

13 When we were talking a minute ago about the
14 September 28th meeting, you, Smith, Fagan and Bryce
15 Geoffrey, you thought that Tim Smith probably set it up.
16 So he must have called you?

17 **MR. MacDONALD:** Correct.

18 **MR. MANSON:** When he called you, did you
19 tell him that you already had a prepared statement?

20 **MR. MacDONALD:** I don't know.

21 **MR. MANSON:** Did he give you any advice as
22 to what you should bring with you to the meeting?

23 **MR. MacDONALD:** I don't know.

24 **MR. MANSON:** You can't remember?

25 **MR. MacDONALD:** I can't recall.

1 **MR. MANSON:** Okay. And, if we could just
2 look for a minute at page 70 of Exhibit 206, there's
3 another long portion in the bottom half. It starts:

4 "And likewise, I would like to speak to
5 your brother Michael..."

6 Do you see where I am, Mr. MacDonald?

7 **MR. MacDONALD:** Yes.

8 **MR. MANSON:** It's the next part that I'm
9 interested in.

10 "What's happened in this case is
11 periodically, we're getting...we're
12 getting complaints against Father
13 Charles, but not sufficient in numbers
14 to either...I try to say, 'No, we can't
15 go' or 'Yes, we can go' and that's what
16 happened with St. John's and St.
17 Joseph's."

18 Can you remember whether that remark had any
19 special meaning for you?

20 **MR. MacDONALD:** No.

21 **MR. MANSON:** Did you take it as a suggestion
22 that it would be good to have other complainants?

23 **MR. MacDONALD:** No.

24 **MR. MANSON:** In this conversation, Tim Smith
25 does raise with you the problem of allegations of

1 collaboration, and you immediately say "I know where you're
2 going with that." That's what happened, correct?

3 **MR. MacDONALD:** I don't know.

4 **MR. MANSON:** Well, I'll just point it out to
5 you. At page 46, halfway down the page:

6 "I said to myself, I don't want anybody
7 to think there..."

8 And this may be a misprint. It says:

9 "...an infusion here between the two,
10 so I'm just going to keep track of
11 everything."

12 And Tim Smith says:

13 "You see where I'm coming from?"

14 And you say:

15 "No, I know."

16 Tim says:

17 "This is why I'm asking."

18 And you say:

19 "I understand where you're coming from.
20 This is why I wanted this now."

21 It says:

22
23 "Because the questions will certainly
24 be asked."

25 And you said:

1 "And I can understand."

2 Is that correct?

3 **MR. MacDONALD:** That's correct.

4 **MR. MANSON:** But at any time, did they say
5 to you "Do not speak with D.S." other than comments like
6 this, about the concern about ---

7 **MR. MacDONALD:** No.

8 **MR. MANSON:** Did they at any time, tell you
9 not to speak to any other altar boys?

10 **MR. MacDONALD:** Individually?

11 **MR. MANSON:** Yes.

12 **MR. MacDONALD:** No.

13 **MR. MANSON:** And after this meeting, you got
14 a call from Tim Smith and he asked for names of altar boys
15 and you did give him the names of some of the people that
16 you remembered?

17 **MR. MacDONALD:** Correct.

18 **MR. MANSON:** I would suggest to you from
19 your notes that that's about October 26th.

20 **MR. MacDONALD:** Correct.

21 **MR. MANSON:** Around October 11th, you met
22 Perry Dunlop and Helen Dunlop, didn't you?

23 **MR. MacDONALD:** Correct.

24 **MR. MANSON:** And was it around that time
25 that she gave you a book of press clippings?

1 **MR. MacDONALD:** Correct.

2 **MR. MANSON:** Now, these would not be
3 clippings about the events that happened while you were an
4 altar boy. That was many years before. These would be
5 clippings about what happened in the Cornwall area, while
6 you were in British Columbia?

7 **MR. MacDONALD:** Correct.

8 **MR. MANSON:** So they would be events
9 involving Father Charles MacDonald, involving Malcolm
10 MacDonald, involving Perry Dunlop and maybe some others?

11 **MR. MacDONALD:** Correct.

12 **MR. MANSON:** You've got a copy of your notes
13 with you now?

14 **MR. MacDONALD:** My handwritten notes?

15 **MR. MANSON:** Yes.

16 **MR. MacDONALD:** Yes.

17 **MR. MANSON:** That we marked Exhibit 204, I
18 believe.

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

20 **MR. MANSON:** Maybe you can help me out. My
21 third page is cut off at the bottom. It's October 11th ---

22 **MR. MacDONALD:** My third page is cut off at
23 the bottom.

24 **MR. MANSON:** Then you can't help me out.

25 Thank you for trying.

1 On the page following that, under the date
2 November 3rd, you have with a question mark at the end, "Why
3 did Tim Smith lie to me about time taken so far?"

4 Do you see that sentence?

5 **MR. MacDONALD:** Yes.

6 **MR. MANSON:** Can you tell us what you meant
7 by that?

8 **MR. MacDONALD:** First off, it's November 8th.
9 There's a "th" after, not an "rd".

10 **MR. MANSON:** Thank you. I misread. It
11 looks like a 3 on mine. November 8th. Thank you.

12 **MR. MacDONALD:** So your question again?

13 **MR. MANSON:** Can you tell us what you meant
14 by "Why did Smith lie to me about time taken so far?"

15 **MR. MacDONALD:** He had said, on more than
16 one occasion, that he was waiting for the transcripts of
17 the videotaped statement. I felt lied to, at that point.

18 **MR. MANSON:** You didn't think he was telling
19 you the whole story?

20 **MR. MacDONALD:** That's correct.

21 **MR. MANSON:** That was your perception of
22 what was going on?

23 **MR. MacDONALD:** That's correct.

24 **MR. MANSON:** If we can move to the next
25 page, and I don't want you to use any names in referring to

1 this, but on November 11th, you met with someone who had
2 been an altar boy with you?

3 **MR. MacDONALD:** Correct.

4 **MR. MANSON:** And later he was one of the
5 complainants in the prosecution?

6 **MR. MacDONALD:** Correct.

7 **MR. MANSON:** Did you have to encourage him
8 to go to the police?

9 **MR. MacDONALD:** I can't recall.

10 **MR. MANSON:** Well, let's say it took a lot
11 of discussing with him before he made that decision. Is
12 that fair?

13 **MR. MacDONALD:** We met for a few hours.

14 **MR. MANSON:** And the purpose of the meeting
15 was to discuss what he might do about events that happened
16 when he was an altar boy?

17 **MR. MacDONALD:** Not solely.

18 **MR. MANSON:** Not solely.

19 But that was a major part of the
20 conversation?

21 **MR. MacDONALD:** I don't know.

22 **MR. MANSON:** Okay. Did you feel a need to
23 meet with him because of the comment by Tim Smith that
24 suggested more complainants might make a stronger case?

25 **MR. MacDONALD:** Possibly.

1 **MR. MANSON:** Mr. Commissioner, if I can just
2 have a second to go back over my ---

3 **THE COMMISSIONER:** Certainly.

4 **MR. MANSON:** --- notes. I might be
5 finished.

6 **(SHORT PAUSE/COURTE PAUSE)**

7 **MR. MANSON:** You answered some questions
8 about -- from Mr. Dumais about your first meeting with
9 Shelley Hallett, the Crown Attorney.

10 **MR. MacDONALD:** Yes.

11 **MR. MANSON:** And you suggested that that
12 first meeting was just an introduction, correct? That was
13 the phrase you used.

14 **MR. MacDONALD:** Kind of an introductory
15 meeting. That's correct.

16 **MR. MANSON:** Can I ask you who was there at
17 that meeting?

18 **MR. MacDONALD:** David Silmser, myself,
19 Shelley Hallett and Joe Dupuis.

20 **MR. MacDONALD:** When you were answering Mr.
21 Dumais' questions you said "We were called by Joe Dupuis."
22 By "we" you mean yourself and Mr. Silmser?

23 **MR. MacDONALD:** Correct.

24 **MR. MANSON:** Eventually you were represented
25 by a Mr. Robichaud from Newmarket in your civil action?

1 MR. MacDONALD: Correct.

2 MR. MANSON: How did you meet Mr. Robichaud?

3 MR. MacDONALD: Through Charles Bourgeois.

4 MR. MANSON: Were you ever represented by
5 Mr. Bourgeois?

6 MR. MacDONALD: Maybe. You know, I really
7 can't remember. He may have handled my case for a short
8 time.

9 MR. MANSON: This is after ---

10 MR. MacDONALD: Bryce.

11 MR. MANSON: --- Mr. Geoffrey moved to
12 British Columbia?

13 MR. MacDONALD: No.

14 MR. MANSON: But after Mr. Geoffrey?

15 MR. MacDONALD: Correct.

16 MR. MANSON: And how did you meet Mr.
17 Bourgeois?

18 MR. MacDONALD: Through Perry Dunlop.

19 MR. MANSON: I have no other questions.
20 Thank you, Mr. MacDonald.

21 MR. MacDONALD: Thank you.

22 THE COMMISSIONER: Thank you.

23 Mr. Lee.

24 ---CROSS-EXAMINATION BY/CONTRE INTERROGATOIRE PAR MR. LEE:

25 MR. LEE: Good afternoon, Mr. MacDonald.

1 **MR. MacDONALD:** Good afternoon.

2 **MR. LEE:** My name is Dallas Lee. I'm
3 counsel for the Victims Group here at the Inquiry. I have
4 a few questions for you.

5 I'm going to try to move chronologically, if
6 at all possible. So I'm going to break it down by
7 institution and go in that order and try to cover them off
8 as we go. So I'm going to begin with the Diocese of
9 Alexandria-Cornwall.

10 You've told us already that you sent a
11 letter to -- you wrote a letter to Father Kevin Maloney on
12 August 11th, 1995 and you delivered it on August 14th, 1995.
13 Is that correct?

14 **MR. MacDONALD:** Correct.

15 **MR. LEE:** Was that the first time that you
16 had ever set out these details on paper?

17 **MR. MacDONALD:** Yes.

18 **MR. LEE:** You told us that you -- I believe
19 you said you had started to write that letter a number of
20 times but you had never actually done it before. Is that
21 correct?

22 **MR. MacDONALD:** Correct.

23 **MR. LEE:** So Kevin Maloney was the first
24 person that you ever complained to about these events?

25 **MR. MacDONALD:** Correct.

1 **MR. LEE:** And you've told us that you then
2 heard back from Father Maloney soon afterward. Is that
3 correct?

4 **MR. MacDONALD:** Correct.

5 **MR. LEE:** I'd like to take a look at that
6 letter. It's Exhibit 103 -- 203, I'm sorry.

7 **THE COMMISSIONER:** No, Exhibit 203 is the
8 response.

9 **MR. LEE:** Right. That's what I mean, is the
10 response from Father Maloney. That's what I want to look
11 at.

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

13 **MR. LEE:** Its date is August 15th. It's the
14 one-paragraph letter.

15 Do you have that, sir?

16 Now, I'd just like to read it in. It reads:

17 "Dear Mr. MacDonald.

18 I received your letter yesterday.

19 Diocesan policy (see attached document)

20 requires that I forward your complaint

21 to the police so that they may

22 investigate. Since you spoke of a

23 healing process, I hope that you will

24 cooperate with the authorities.

25 Sincerely,

1 Kevin J. Maloney."

2 And you recall receiving that letter?

3 **MR. MacDONALD:** Yes.

4 **MR. LEE:** Was that the response that you
5 were expecting?

6 **MR. MacDONALD:** I don't know.

7 **MR. LEE:** You don't recall what you were
8 expecting or you hadn't turned your mind to it?

9 **MR. MacDONALD:** I was hoping for help.

10 **MR. LEE:** Do you recall what your reaction
11 was to receiving this letter?

12 **MR. MacDONALD:** No reaction.

13 **MR. LEE:** In the letter he tells you that
14 he's forwarded your compliant to the police. In your
15 original letter, you had specifically asked that he not do
16 that. Do you remember reacting to that at all?

17 **MR. MacDONALD:** Reacting to the police being
18 involved?

19 **MR. LEE:** Right.

20 **MR. MacDONALD:** Not much I could do, right?

21 **MR. LEE:** It didn't bother you in
22 particular?

23 **MR. MacDONALD:** No, not at that point.

24 **MR. LEE:** At the very bottom of this letter,
25 if we can scroll down on the screen, in the bottom right-

1 hand corner, do you know what that is, that marking there?

2 **MR. MacDONALD:** No.

3 **MR. LEE:** Was that made by you?

4 **MR. MacDONALD:** No.

5 **MR. LEE:** Okay. Thank you.

6 So based on this letter that you received,
7 you know that Father Maloney has forwarded your complaint
8 to the police. He doesn't mention in this letter that he
9 had also forwarded or at least spoken to the Children's Aid
10 Society about it. Were you advised through a phone call or
11 through another letter about that part of his actions?

12 **MR. MacDONALD:** I didn't know that he had
13 been to the Children's Aid.

14 **MR. LEE:** I'd like to take you to a document
15 that you haven't seen yet. It is Document Number 703666.
16 I'll just explain what it is while the Clerk is finding it.
17 It is a note dated August 15th of 1995 and created by
18 Richard Abell from the Children's Aid Society in which he
19 describes the visit that he had from Father Maloney.

20 **THE COMMISSIONER:** Exhibit number 230,
21 document dated the 15th of August 1995 and signed by R.
22 Abell.

23 **---EXHIBIT NO./ PIÈCE NO P-230:**

24 (703666) Note from Project Blue written by
25 R. Abell - August 15, 1995

1 **MR. LEE:** Do you have that document in front
2 of you or do you need it up on the screen?

3 **MR. MacDONALD:** I've got it in front of me.

4 **MR. LEE:** So I've read this a couple of
5 times and I think I've deciphered the handwriting so I'd
6 just like to read it in. It's entitled, as the
7 Commissioner said, August 15th, 1995, and it reads:

8 "Office visit from Father Kevin
9 Maloney, St. Columban's Church,
10 approximately 3:00 p.m. Came to inform
11 me he had received a letter yesterday
12 from a 35-year old about claiming to be
13 an abuse victim of Father Charlie
14 MacDonald. Name is John MacDonald.
15 Claims to know David Silmser. Has
16 history of alcohol abuse. Wants to
17 start healing. Didn't want CAS or
18 police involved. Wanted Father Kevin
19 to help him see things move ahead.
20 Father Kevin wrote him today to say
21 he's informing police..."

22 And I believe that's the "and" symbol:

23
24 "...& CAS. He's spoken to Rick True of
25 CPS. Case to be assigned to Dave

1 Bough. Also spoke to Bishop, now me.
2 Father Kevin has the new protocol, is
3 using it. We discussed the case in
4 general terms."

5 So that's Mr. Abell's note of the meeting
6 that was made on the day that it was made.

7 Were you ever shown this note before now?

8 **MR. MacDONALD:** No.

9 **MR. LEE:** Were you ever advised by anybody
10 of the content of that conversation?

11 **MR. MacDONALD:** No.

12 **MR. LEE:** Presumably you learned before this
13 moment that Father Maloney went to see Rick Abell. Is that
14 correct? You were told at some point before today?

15 **MR. MacDONALD:** Just lately, really.

16 **MR. LEE:** Just through this inquiry process?

17 **MR. MacDONALD:** Correct.

18 **MR. LEE:** Did you have any further contact
19 directly with Father Maloney after this time?

20 **MR. MacDONALD:** No, beyond the one phone
21 call, message.

22 **MR. LEE:** And you didn't get through to
23 Father Maloney?

24 **MR. MacDONALD:** No.

25 **MR. LEE:** You left a message for him at his

1 office?

2 **MR. MacDONALD:** That's correct.

3 **MR. LEE:** And so even in the years since
4 then, you haven't met or spoken with Father Maloney?

5 **MR. MacDONALD:** No.

6 **MR. LEE:** And you've told us that you were
7 contacted at some point by the Cornwall Police with respect
8 to that message you had left for Father Maloney and that
9 you were, in your words, "ordered" not to call him again.
10 Is that correct?

11 **MR. MacDONALD:** Correct.

12 **MR. LEE:** And Mr. Dumais, in-chief, brought
13 you to the letters that went back and forth with you
14 questioning the Cornwall Police about that and them
15 responding?

16 **MR. MacDONALD:** Correct.

17 **MR. LEE:** You described today that the order
18 that you received from the Cornwall Police gave you, in
19 your words, "a creepy feeling down my spine". Do you
20 recall saying that?

21 **MR. MacDONALD:** Yes.

22 **MR. LEE:** Did you feel like you had done
23 something wrong ---

24 **MR. MacDONALD:** Yes.

25 **MR. LEE:** --- as a result of that phone

1 call?

2 Would you agree -- I suppose that's not the
3 right way to put it. Did you feel like you and Father
4 Maloney were on different sides?

5 **MR. MacDONALD:** Yes.

6 **MR. LEE:** Did you receive a letter from
7 Kevin Maloney at any point explaining that there was an
8 ongoing investigation and he didn't feel it appropriate to
9 be contacted by you?

10 **MR. MacDONALD:** No.

11 **MR. LEE:** You were never told by Father
12 Maloney that you should let the police handle it and not
13 contact him?

14 **MR. MacDONALD:** No.

15 **MR. LEE:** You told us in-chief that the
16 whole point of writing your first letter to Father Maloney
17 was to get some help for yourself. Is that correct?

18 **MR. MacDONALD:** Correct.

19 **MR. LEE:** And in response you got the letter
20 that we just looked at saying that the matter had been
21 referred to the police?

22 **MR. MacDONALD:** Correct.

23 **MR. LEE:** And then your next contact was a
24 call from the police saying to stop calling Father Maloney?

25 **MR. MacDONALD:** Correct.

1 **MR. LEE:** Were you offered counselling at
2 any point in there?

3 **MR. MacDONALD:** No.

4 **MR. LEE:** Were you still interested in
5 counselling at that point?

6 **MR. MacDONALD:** That's all I was interested
7 in.

8 **MR. LEE:** And you told us during your
9 examination-in-chief by Mr. Dumais that counselling was
10 eventually set-up. Is that correct?

11 **MR. MacDONALD:** Correct.

12 **MR. LEE:** And that was with the assistance
13 of Mr. Abell?

14 **MR. MacDONALD:** Correct.

15 **MR. LEE:** And it was facilitated by the
16 Diocese?

17 **MR. MacDONALD:** Correct.

18 **MR. LEE:** I'd like to take you to another
19 document that has not been identified yet. It is Document
20 Number 117562.

21 **THE COMMISSIONER:** Thank you.

22 Exhibit 231 is a publication of CBC Radio 1,
23 Wednesday, 28th of April 1999 on World Report.

24 **---EXHIBIT NO./ PIÈCE NO P-231:**

25 (117562) Transcript from a CBC Radio 1 -

1 Cornwall Paedophile Ring

2 **MR. LEE:** Do you recall that you gave
3 interviews to -- I believe that's a typo. My understanding
4 is her name is Maureen Brosnahan. It says Brosnan there.
5 But do you recall giving interviews to CBC Radio?

6 **MR. MacDONALD:** Yes.

7 **MR. LEE:** And you'll agree with me that this
8 appears to be a transcript of an interview that you gave
9 where it identifies John MacDonald and it alternates
10 between you and the reporter. Is that correct?

11 **MR. MacDONALD:** Correct.

12 **MR. LEE:** The story seems to begin with a
13 narrator from the CBC with the phrase "Men who say". Do
14 you see that?

15 **MR. MacDONALD:** Yes.

16 **MR. LEE:** Down below, the fourth last line,
17 a sentence begins near the end, and it reads:

18 "One man says he was told he can only
19 get further counselling if he agrees
20 that anything he says to a counsellor
21 can't be used in court."

22 Do you recall telling the CBC that?

23 **MR. MacDONALD:** Do I recall?

24 **MR. LEE:** Yes.

25 **MR. MacDONALD:** I don't recall.

1 **MR. LEE:** Do you recall whether that
2 statement is true or not?

3 **MR. MacDONALD:** I can't recall.

4 **MR. LEE:** Okay. I would like to take you to
5 a couple of letters that may help refresh your memory. You
6 wouldn't necessarily have seen these letters, but they may
7 help you. The first is Document Number 703 ---

8 **THE COMMISSIONER:** Just a minute. Before we
9 go further, can I -- there's just -- if you look in this
10 document where the reporter -- it says:

11 "You confided in a former schoolmate, a
12 lawyer, only to find out later that
13 lawyer was acting for the priest and
14 the lawyers shared that information
15 with his client."

16 Does that ring a bell to you?

17 **MR. MacDONALD:** Sean Adams.

18 **THE COMMISSIONER:** Oh.

19 **MR. LEE:** I intend to get there.

20 **THE COMMISSIONER:** Okay. Sorry. Sorry.

21 **MR. LEE:** No, that's fine. Is it all right
22 if I go through it where I intended?

23 **THE COMMISSIONER:** Whenever you want to.

24 **MR. LEE:** Thank you.

25 So the document I would like to take you to

1 is 703660. I'll just preface it while the clerk digs that
2 up. This is a letter dated September 27th, 1995 from Bishop
3 Eugene Larocque -- sorry, from Rick Abell at the CAS to
4 Bishop Larocque dealing with the discussion they had had
5 about counselling for you.

6 **THE COMMISSIONER:** All right. Exhibit 232,
7 letter, September 27th, 1995, addressed to Bishop Eugene
8 Larocque from Richard Abell.

9 **--- EXHIBIT NO./PIÈCE NO. P-232:**

10 (703660) Letter from Richard J. Abell to
11 Bishop Eugene Laroque - September 27, 1995

12 **MR. LEE:** Do you have that, Mr. MacDonald?

13 **MR. MacDONALD:** Yes, I do.

14 **MR. LEE:** And that reads:

15 "Further to our telephone conversation
16 of yesterday, I wish to acknowledge and
17 thank you for your assistance to the
18 above-named individual. With the
19 financial support of the Diocese, I
20 have made arrangements with Mr. Raymond
21 Houde of the Family Counselling Centre
22 for Mr. MacDonald to be seen forthwith.
23 I have spoken to Mr. Houde and he is
24 aware that the billings for Mr.
25 MacDonald's sessions is to be sent to

1 the Diocesan Centre to the attention of
2 yourself. My genuine appreciation to
3 you for your compassionate and prompt
4 response to this request."

5 So that's a letter from Rick Abell to Bishop
6 Larocque, acknowledging the fact that they had had a
7 discussion and that they had agreed to pay for the
8 counseling.

9 Do you agree with that?

10 **MR. MacDONALD:** Yes.

11 **MR. LEE:** And that was your understanding of
12 the arrangement, that the Diocese would agree to pay for
13 your counseling?

14 **MR. MacDONALD:** Yes.

15 **MR. LEE:** And did you in fact go for that
16 counseling?

17 **MR. MacDONALD:** Yes.

18 **MR. LEE:** And did the Diocese pay for it?

19 **MR. MacDONALD:** Yes.

20 **MR. LEE:** Now, the ---

21 **THE COMMISSIONER:** The counseling, once,
22 twice, over a year?

23 **MR. MacDONALD:** I'm not sure how long it
24 lasted. Plenty of times anyways. There was multiple
25 visits.

1 **THE COMMISSIONER:** Okay.

2 **MR. LEE:** Before Madam Clerk returns to her
3 seat, I would like to now look at Document Number 738006.
4 While she's preparing that, this is a letter dated the next
5 day, September 28th, 1995 and sent from Peter Annis, who I
6 understand to be a solicitor for the Diocese to your
7 lawyer, Mr. Geoffrey.

8 **THE COMMISSIONER:** Exhibit 233.

9 **--- EXHIBIT NO./PIÈCE NO. P-233:**

10 (738006) Letter from Mr. Peter B. Annis to
11 Bryce V. Geoffrey - September 28, 1995

12 **MR. LEE:** It's a short letter. It just goes
13 on to a second page.

14 And as I said, this is the day after the
15 letter that we just read, and this one reads:

16 "Bishop Larocque has advised me that
17 Mr. Richard Abell of the Cornwall
18 Children's Aid Society has spoken to
19 him with respect to the Church
20 providing assistance to your client,
21 Mr. MacDonald in terms of psychological
22 help. The Diocese has, on a without-
23 prejudice basis, offered to pay for any
24 psychological help that Mr. MacDonald
25 should obtain, and in that regard, I

1 believe he has been referred to the
2 Family Counselling Service in Cornwall.
3 I assume that you have no difficulty
4 with this and unless I hear back from
5 you, the Church will proceed to assist
6 Mr. MacDonald by paying for his
7 counseling and other related expenses."

8 Now, the key phrase in that letter that goes
9 to what we're discussing now is that the Diocese has agreed
10 on a "without-prejudice basis" to pay for your counseling.
11 That's not at all uncommon, I can tell you.

12 Do you recall -- are you familiar with the
13 phrase "without prejudice"?

14 **MR. MacDONALD:** No. I think I talked to
15 somebody about it years ago, but it doesn't click again.

16 **MR. LEE:** You spoke with somebody about the
17 phrase "without prejudice" or about this ---

18 **MR. MacDONALD:** Correct, the phrase "without
19 prejudice".

20 **MR. LEE:** Typically, I can tell you that the
21 phrase "without prejudice" would mean that "We'll agree to
22 do something, but you don't get to later on point to that
23 as an indication that we've done something wrong or that
24 we've admitted something."

25 **MR. MacDONALD:** Okay.

1 **MR. LEE:** It typically -- so the reason that
2 I'm putting this to you is in the interview with the CBC
3 that we saw that you gave, you said that you cannot get
4 further counseling -- or you could only get further
5 counseling, rather, if you agreed that anything you've said
6 to a counselor can't be used in court.

7 Now, would you agree with me that this
8 letter to Mr. Geoffrey from Mr. Annis does not say that?

9 **MR. MacDONALD:** Correct.

10 **MR. LEE:** That's not one of the conditions
11 that he put on there?

12 **MR. MacDONALD:** Correct.

13 **MR. LEE:** So my question to you is was that
14 condition put on orally or in a different letter or were
15 you told that, or do you know whether you were assuming
16 without prejudice meant that?

17 **MR. MacDONALD:** I can't recall.

18 **MR. LEE:** You don't have any recollection of
19 that at all?

20 **MR. MacDONALD:** No.

21 **MR. LEE:** Did you ever meet Bishop Larocque?

22 **MR. MacDONALD:** Yes.

23 **MR. LEE:** Do you recall when you would have
24 met him? Are you referring to your handwritten notes, sir?

25 **MR. MacDONALD:** Yes, January 7th, 1996.

1 **MR. LEE:** This is Exhibit 204.
2 Can you read to us that entry on January 7th?

3 **MR. MacDONALD:** "Attended the Bishop's
4 levy today just to introduce him to
5 Lyne and John MacDonald. Cannot hide
6 behind J.M. anymore. I must be proud
7 of who I am and what I'm doing or
8 nothing is worthwhile. Perry and
9 Carson also attended. Felt okay. Went
10 well. His comments were "I've heard
11 lots about you and I still don't know
12 what the truth is." I offered to sit
13 down and talk with him at any time.
14 His reaction was "My lawyers told me
15 that I can't do that."

16 I can't make out the next ---

17 **MR. LEE:** I've looked at it and it appears
18 to me that may read "this on the way in". Does that look
19 right to you?

20 **MR. MacDONALD:** Yes, that's right.
21 "...this on the way in. On the way out
22 he said, "Let's hope that this gets
23 cleared up this year."

24 **MR. LEE:** Do you recall meeting the Bishop
25 at that levy?

1 **MR. MacDONALD:** Yes.

2 **MR. LEE:** And is that an accurate summary of
3 your conversation with him?

4 **MR. MacDONALD:** Yes.

5 **MR. LEE:** Is there anything else you can
6 tell is not reflected in this note about what you may have
7 said to him or what he may have said to you?

8 **MR. MacDONALD:** I think that was about the
9 extent of it.

10 **MR. LEE:** What did you think of that
11 conversation?

12 **MR. MacDONALD:** Again, where's the
13 compassion here? You know, like I say, it was an
14 introduction, nothing more, to Lyne -- my wife Lyne and
15 myself. I felt him cold and arrogant, certainly not warm
16 and compassionate.

17 So expectations going in? I don't know, but
18 I didn't expect the coldness that I felt walking out.

19 **MR. LEE:** Yesterday, when you were in
20 examination in-chief with Mr. Dumais, he got into -- and
21 I'll explain to you exactly what I want to get into in
22 relation to this -- he got into the issue with your parents
23 and whether or not they made a complaint to the Diocese.
24 And I don't want to get into anything to do about a
25 complaint about you. You've explained that and I believe

1 you've explained it well.

2 What you said in-chief, however, was that a
3 complaint was made to the Church and it was about your
4 brother, and this was by your parents?

5 **MR. MacDONALD:** Correct.

6 **MR. LEE:** And you told us in-chief that you
7 now understand that the complaint was a phone call to
8 Father Charles MacDonald; is that correct?

9 **MR. MacDONALD:** Correct.

10 **MR. LEE:** And you explained to us that you
11 didn't know that at the time, but you know that now.

12 **MR. MacDONALD:** Correct.

13 **MR. LEE:** And if you'll recall, the
14 Commissioner asked you, "Well, how do you know that?" And
15 your answer was, "My mother told me."

16 **MR. MacDONALD:** Correct.

17 **MR. LEE:** Do you recall that?

18 **MR. MacDONALD:** Yes.

19 **MR. LEE:** I want to be perfectly clear here.
20 Is it your understanding that your parents made a complaint
21 to the Diocese in relation to something that happened with
22 your brother?

23 **MR. MacDONALD:** Yes.

24 **MR. LEE:** And that that complaint was
25 received by Father Charles MacDonald?

1 **MR. MacDONALD:** Yes.

2 **MR. LEE:** And your mother told you that?

3 **MR. MacDONALD:** Yes.

4 **MR. LEE:** And did your mother tell you
5 anything about what action was taken by the Diocese in
6 relation to that complaint?

7 **MR. MacDONALD:** Yes.

8 **MR. LEE:** And what did she tell you?

9 **MR. MacDONALD:** Nothing.

10 **MR. LEE:** Nothing was done whatsoever?

11 **MR. MacDONALD:** Correct.

12 **MR. LEE:** Were you ever called by the
13 Diocese at any point after your letter to Kevin Maloney for
14 an interview?

15 **MR. MacDONALD:** No.

16 **MR. LEE:** You were never brought before a
17 committee or anything along those lines?

18 **MR. MacDONALD:** No.

19 **MR. LEE:** Were you ever advised of any kind
20 of investigation being conducted by the Diocese?

21 **MR. MacDONALD:** No.

22 **MR. LEE:** At some point, Father MacDonald
23 was charged criminally in relation to your allegations; is
24 that correct?

25 **MR. MacDONALD:** Correct.

1 **MR. LEE:** Were you ever made aware that
2 charges had been -- I'm going to say charges were laid; I
3 don't know if that's the right language -- but charges were
4 laid under Church law against Father MacDonald?

5 **MR. MacDONALD:** No.

6 **MR. LEE:** Has any bishop or Diocese official
7 contacted you since the time of your original letter to see
8 how you're doing?

9 **MR. MacDONALD:** No.

10 **MR. LEE:** Were you contacted during the
11 criminal process at all?

12 **MR. MacDONALD:** No.

13 **MR. LEE:** To this day, have you been
14 contacted by anybody from the Diocese?

15 **MR. MacDONALD:** No.

16 **MR. LEE:** How do you feel about that?

17 **MR. MacDONALD:** It just carries on that
18 coldness that I left on January 7th, 1996. It was me that
19 went to introduce myself, not them coming to introduce
20 themselves and offer that warm, compassionate handshake
21 that I felt was needed.

22 **MR. LEE:** I want to return to the area that
23 the Commissioner brought you to a few moments ago in
24 relation to Sean Adams and everything that happened with
25 that.

1 **MR. MacDONALD:** Can I stop you for a second?

2 **MR. LEE:** Of course.

3 **MR. MacDONALD:** Okay. You asked me if
4 anybody ever contacted me from the Diocese, but I see in my
5 notes it's me that contacted somebody at the Diocese.

6 **MR. LEE:** Tell us about that.

7 **MR. MacDONALD:** On November 4th, 1995 this
8 was kind of after a warning from Tim Smith for victims to
9 not get together and talk. I called Father McDougall, who
10 was a pastor in Alexandria, to invite him to a meeting the
11 following week at my place between two other victims and
12 myself, which he tersely declined.

13 **MR. LEE:** For the record, will you read that
14 note, please?

15 **MR. MacDONALD:** "November 4th, called
16 Father McDougall to invite him to a
17 meeting on Saturday, November 11th.
18 "Dave invited him." Very terse on
19 phone. Said "Fine," that he won't be
20 there."

21 **MR. LEE:** If I can have you look at that, my
22 reading of this letter is that the fifth word is "uninvite"
23 -- "call Father McDougall to uninvite him to the meeting".

24 **MR. MacDONALD:** Sorry about that.

25 **MR. LEE:** "Dave had invited him."

1 Do you recall that?

2 **MR. MacDONALD:** Yes. But I must have called
3 him to invite him at some time.

4 **MR. LEE:** Dave invited him, right? It says
5 on the second line that Dave invited him and you called him
6 ---

7 **MR. MacDONALD:** Correct.

8 **MR. LEE:** Now, what you're saying is that
9 this is a -- this was in response to a warning by Tim Smith
10 ---

11 **MR. MacDONALD:** To not get together.

12 **MR. LEE:** To not get together, to not
13 discuss things?

14 **MR. MacDONALD:** Correct.

15 **MR. LEE:** And what was the purpose of that
16 warning not to discuss things. Do you know?

17 **MR. MacDONALD:** That you could pollute the
18 case or whatever the right word is. I don't know.

19 **MR. LEE:** Okay. Now, if I can take you to
20 Document Number 728529, these are police notes, and I can
21 advise, Mr. Commissioner, that there are a couple of names
22 in this document that I don't recognize. I don't know who
23 they are or what they are. I don't know if there are
24 concerns with confidentiality, but there is one name in
25 there that I know, based on a few minutes ago, that we're -

1 --

2 **THE COMMISSIONER:** What police force?

3 **MR. LEE:** They are from the Cornwall Police.

4 **THE COMMISSIONER:** And the Cornwall Police
5 has been advised that these documents would be in cross-
6 examination?

7 **MR. LEE:** Yes, they were part of the notice
8 that I provided. Actually, I believe that Cornwall Police
9 has provided notice of this document as well.

10 **THE COMMISSIONER:** Okay. So we're going to
11 put them in as the same exhibit? So Exhibit 234 is a two-
12 page document. Actually, there's four pages of notes.

13 **MR. LEE:** Right.

14 --- **EXHIBIT NO./PIÈCE NO. P-234:**

15 (728529) Handwritten Officer's Notes -
16 Author Unknown - August 16, 1998

17 **THE COMMISSIONER:** And this is Cornwall
18 Police. Do you know whose officer's notes they are?

19 **MR. LEE:** No, I don't.

20 **THE COMMISSIONER:** Okay. Well, in any
21 event, it's referring to incident 117047-8, dated the 16th
22 of August 1995. Okay. Go ahead.

23 Which one do you want to look at?

24 **MR. LEE:** I would like to look at the note -
25 - the second dated entry, being August 21st, '95.

1 **THE COMMISSIONER:** Yes.

2 **MR. LEE:** Do you see that Mr. MacDonald?

3 **MR. MacDONALD:** Yes.

4 **MR. LEE:** And I believe it reads:

5 "10:21 to John MacDonald. He was
6 expecting my call. He wants to pursue
7 this through the proper channels
8 (healing), but wants to discuss this
9 with lawyer (Sean Adams) first."

10 Do you see that there?

11 **MR. MacDONALD:** Yes.

12 **MR. LEE:** Do you recall telling the Cornwall
13 Police that?

14 **MR. MacDONALD:** I can't recall.

15 **MR. LEE:** Do you recall any part of this
16 conversation, whether there was any reaction to that or
17 anything along those lines?

18 **MR. MacDONALD:** No, I can't recall.

19 **MR. LEE:** Following this, you in fact did
20 meet with Sean Adams. You told us that already. Is that
21 correct? And if it's easier ---

22 **MR. MacDONALD:** Yes, I would imagine so.

23 **MR. LEE:** For your reference, I can take you
24 to your own handwritten notes, being Exhibit 204. And on
25 the first page you have an entry dated November 21st, and

1 the fourth slash, reads:

2 "Met with Sean Adams, his office,
3 around noon. Shared letter with him.
4 He advised me to get a lawyer and my
5 three options to deal with these
6 criminal charges, civil suit or deal
7 with Diocese."

8 Do you see that there?

9 **MR. MacDONALD:** Yes.

10 **MR. LEE:** And then under there, you say -- I
11 believe it's 2:30:

12 "Made call to Walter McLean; left
13 message."

14 **MR. MacDONALD:** Correct.

15 **MR. LEE:** And you've told us that Walter
16 McLean was a lawyer.

17 **MR. MacDONALD:** Correct.

18 **MR. LEE:** So on August 21st, you met with
19 Sean Adams. He told you to get a lawyer and you went and
20 tried to get a lawyer. Is that correct?

21 **MR. MacDONALD:** Correct.

22 **MR. LEE:** Can you explain why, at that time,
23 why Sean Adams wouldn't have been your lawyer? If you went
24 to him and he gave you advice and he said "Get a lawyer",
25 did he explain to you why you couldn't have him as a

1 lawyer?

2 **MR. MacDONALD:** No.

3 **MR. LEE:** Do you recall asking him to
4 represent you?

5 **MR. MacDONALD:** I don't know.

6 **MR. LEE:** I would like to show you another
7 document from the Cornwall Police Service, document number
8 120888.

9 **THE COMMISSIONER:** Exhibit 235. Okay. It's
10 Archive Occurrence Report. Does it have a date somewhere?

11 **MR. LEE:** It looks like on the third line,
12 the occurrence says it was a phone call on August 19th, '95,
13 at 2:15.

14 **THE COMMISSIONER:** Thank you.

15 **---EXHIBIT NO. /PIÈCE NO P-235:**

16 (120888) CPS Archive Occurrence Report -
17 August 24, 1995.

18 **MR. LEE:** But you can see down below that it
19 was filed by Wilson-King E. on August 24th.

20 Now, I'd like to read to you the narrative
21 of this. It begins on August 19th:

22 "On August 19th, 1995, at approximately
23 14:30 hours, later attended 36 - 4th
24 Street West, the residence of Father
25 Kevin Maloney. Father Maloney, in the

1 presence of his lawyer, Sean Adams,
2 advised writer that he has received two
3 phone calls, through his answering
4 service, from a David Simser..."

5 It says

6 "...as well as one from a John
7 MacDonald. Due to an investigation
8 being done by our Department, Father
9 Maloney, on the advice of his lawyer,
10 wished to have these two advised to
11 stop calling until the investigation is
12 complete. Writer attempted to contact
13 both suspects but with negative
14 results. Return to writer for follow-
15 up."

16 Now, we know that eventually the officer was
17 able to get a hold of you. Is that correct?

18 **MR. MacDONALD:** Correct.

19 **MR. LEE:** So we know that on August 21st, you
20 told the Cornwall Police that you wanted to talk to your
21 lawyer, Sean Adams, before proceeding?

22 **MR. MacDONALD:** Correct.

23 **MR. LEE:** And we know that on August 21st,
24 after that phone call, you met with Sean Adams and were
25 given a few options and told to find a lawyer?

1 **MR. MacDONALD:** Correct.

2 **MR. LEE:** And we now know that on August
3 19th, two days before you made that call, the Cornwall
4 Police had met with Sean Adams in the presence of Kevin
5 Maloney, who he was representing. Is that correct?

6 **MR. MacDONALD:** Correct.

7 **MR. LEE:** Were you told by anybody at the
8 Cornwall Police that Sean Adams was acting for the Diocese?

9 **MR. MacDONALD:** No.

10 **MR. LEE:** And you weren't told by Sean Adams
11 that he was on for the Diocese?

12 **MR. MacDONALD:** No.

13 **MR. LEE:** Sean Adams didn't say anything to
14 you about that whatsoever?

15 **MR. MacDONALD:** No.

16 **THE COMMISSIONER:** I think it's interesting
17 to note -- it might be the choice of word -- further down
18 "Supplementary Report".

19 **MR. LEE:** Yes.

20 **THE COMMISSIONER:** And:

21 "On August 21st, 1995, writer contacted
22 both suspects regarding this incident."

23 **MR. MacDONALD:** Can I say something?

24 **MR. LEE:** Absolutely.

25 **MR. MacDONALD:** And we'd have to refer to a

1 letter from Bob Burnie that's already been entered into
2 evidence.

3 **MR. LEE:** I'm going there.

4 **MR. MacDONALD:** You got that?

5 **MR. LEE:** Yes.

6 **MR. MacDONALD:** Where he corrects that date
7 and it's August 24th that she did get a hold of us.

8 **MR. LEE:** Yes, that wasn't part of what I
9 was going to go to, but we'll go to that letter and I'll
10 give you the opportunity to correct that date.

11 **MR. MacDONALD:** Okay.

12 **MR. LEE:** I think that the key there is that
13 we should note the word "suspects" in reference, obviously,
14 to you and Mr. Silmsler at that point.

15 **MR. MacDONALD:** Okay.

16 **MR. LEE:** And you agree that -- based on the
17 letters that you went over with Mr. Dumais, I take it you
18 would agree that that's a pretty good word to describe how
19 you felt at that point?

20 **MR. MacDONALD:** Correct.

21 **MR. LEE:** Now, you did an interview with the
22 OPP on September 28th of '95. We've looked at that already.
23 I'd like to take you to one page of that interview, if I
24 could. That's Exhibit 206. That's the lengthy transcript
25 that you did with the OPP. But I want to take you to page

1 66 of it. Do you need the Bates page?

2 **THE COMMISSIONER:** No.

3 **MR. LEE:** So again, this is -- to refresh
4 the dates, Sean Adams and Ken Maloney meet with the police
5 on August 19th. You tell the police on the 21st, you want to
6 meet with Sean Adams. You meet with him on the 21st and
7 now, we're at September 28th.

8 And on page 66, at the top, I'll read it to
9 sort of set up what's going on here. It seems that you're
10 discussing who else would have seen the letter that you
11 delivered to Father Maloney. And so at the top it's you
12 speaking. You say:

13 "There is one other person that had a
14 copy of the original letter that Father
15 Maloney...a lawyer Walter McQueen, I
16 just wanted you to..."

17 Tim Smith says:

18 "I don't know him."

19 You reply:

20 "I know, yeah, but I went and saw him.
21 Somebody went and suggested that I go
22 and talk to a lawyer."

23 Tim says:

24 "I see."

25 You respond:

1 "And then he had a copy of this. It
2 was before I was talking to Bryce."

3 Tim says:

4 "Oh, so is he still retained or."

5 You reply:

6 "No."

7 Tim says:

8 "No, there is some indication that Sean
9 Adams might have had some knowledge of
10 this also."

11 And, you respond with a question:

12 "Through?"

13 And can I take it you mean by that "Sean
14 Adams had knowledge through who"?

15 **MR. MacDONALD:** Correct.

16 **MR. LEE:** You're asking a question there?

17 And Mike, who is Mike Fagan, I believe?

18 Mike Fagan, another officer, replies:

19 "Father Maloney."

20 And your response is:

21 "He doesn't know any specifics of
22 anything."

23 Speaking of Sean Adams here:

24 "He...he...he knew that there was
25 letter to Father Maloney. I went and

1 seen him first, because I'm a good
2 friend of Sean's. We grew up playing
3 sports together and the first job I had
4 to come back to from B.C. was working
5 on Sean Adam's new house. So..."

6 And Tim said:

7 "I think Sean is aware of what's going
8 on."

9 To which you replied:

10 "He was just..."

11 And Bryce replies:

12 "I think so."

13 And then you move into a different topic.

14 Would you agree with me that from your
15 answers here it appears that you still didn't have any idea
16 that Sean Adams was representing Kevin Maloney?

17 **MR. MacDONALD:** Correct.

18 **MR. LEE:** Now, we're going to -- I apologize
19 for the ---

20 **THE COMMISSIONER:** If you're going to a
21 different area, we'll take the afternoon break.

22 **MR. LEE:** I'm not going to a different area.
23 I'm going to another document, but if --

24 **THE COMMISSIONER:** Okay. Finish that off.

25 **MR. LEE:** If you can give me 5 minutes,

1 I'll be done this area.

2 **THE COMMISSIONER:** Sure.

3 **MR. LEE:** I'd like to go back to the CBC
4 Radio Interview that I took you to a moment ago and back to
5 the section that the Commissioner pointed us to.

6 Exhibit 231. And again, this is the
7 interview that is about you that you've done with the CBC,
8 and in the third last paragraph, where the reporter is
9 speaking, it says:

10 "At one point, he was betrayed. He
11 confided in a former schoolmate, a
12 lawyer, only to find out later that
13 that lawyer was acting for the priest
14 and the lawyer shared that information
15 with his client."

16 So you obviously learned at some point that
17 Sean Adams was in a conflict position?

18 **MR. MacDONALD:** Correct.

19 **MR. LEE:** And you felt that he had betrayed
20 you?

21 **MR. MacDONALD:** Correct.

22 **MR. LEE:** Can you explain that to us,
23 exactly what you learned and what made you feel that way?

24 **MR. MacDONALD:** The letter I learned it in
25 was the letter from Bob Burnie where he explains that,

1 "That's the first time I saw Sean Adams' name associated
2 with Father Maloney."

3 **MR. LEE:** So if we can go to Exhibit 212
4 then? I'll show you -- the two letters I want to take you
5 to are both within the same document, but we've broken them
6 up in different exhibits.

7 Exhibit 212 is a letter from Joseph St-
8 Denis, the Deputy Chief of Police, to you in response to
9 your letter questioning what was going on with -- why were
10 you being ordered to stop calling Father Maloney,
11 essentially. And it sets out in here, kind of a chronology
12 of what happened, and you'll see that in the second
13 paragraph, the second sentence says:

14 "The complainant, in the presence of
15 his lawyer..."

16 The complainant being Kevin Maloney.

17 "...in the presence of his lawyer (who
18 goes unnamed) advised Constable Wilson
19 that certain phone calls had been made
20 on his telephone answering machine."

21 And then again, in the next paragraph, it refers to the
22 fact that:

23 "It was on the advice of his lawyer."

24 So at that point you knew that Father
25 Maloney had retained legal counsel, but you didn't who it

1 was?

2 **MR. MacDONALD:** Correct.

3 **MR. LEE:** And then we'll get, finally, to
4 the letter that you want us to look at, which is Exhibit
5 218.

6 And you've seen this document already, and I
7 believe this is the document that seems to have been, as
8 far as I can tell anyways, the last contact on this issue
9 you had with the Cornwall Police, the last correspondence
10 flowing to that. And this seems to be, it sort of rehashes
11 what was in the last letter, but it's a little bit more
12 detailed and again, this was at your further request for
13 information. And if you go to the third paragraph, it
14 reads:

15 "On August 19th, 1995, at approximately
16 2:30, Constable Wilson attended the
17 residence of Father Maloney, who had
18 his lawyer, Sean Adams, present."

19 So am I correct that this is the letter that
20 you get that clearly let's you know that Sean Adams was in
21 a conflict position and this is when you realized what's
22 happened?

23 **MR. MacDONALD:** Correct.

24 **MR. LEE:** And you had no notice of it before
25 this time; is that correct?

1 **MR. MacDONALD:** No.

2 **MR. LEE:** And while we're here, if I can
3 take you to the next page of that letter, I believe the
4 first paragraph is what you had referred us to and it
5 reads:

6 "From our conversation, it was
7 determined the date on the report was
8 incorrect, meaning the Occurrence
9 Report. I contacted Constable Wilson
10 and confirmed that the date of August
11 21 was indeed incorrect and that the
12 proper date, according to your notes,
13 was August 24, 1995."

14 Is that what you were referring to us
15 earlier?

16 **MR. MacDONALD:** Correct.

17 **MR. LEE:** So there was an error in that
18 Occurrence Report. You brought it up and it was corrected.
19 Is that correct?

20 **MR. MacDONALD:** Correct.

21 **MR. LEE:** Mr. Commissioner, that leaves that
22 section of my examination.

23 **THE COMMISSIONER:** All right. Let's take
24 the afternoon break.

25 **MR. SHERRIFF-SCOTT:** Sorry, I just need to

1 make one comment before we rise. And I don't know Mr.
2 Adams, I've never met him, but just before we rise and take
3 a break, before the media goes off somewhere, there is
4 sworn testimony that you will hear of in cross-examination
5 that Mr. Adams advised of the conflict in the very first
6 meeting, and I'm just reacting to the fact this individual
7 is not represented. I don't know him and I don't want the
8 media to be ---

9 **THE COMMISSIONER:** Well ---

10 **MR. SHERRIFF-SCOTT:** Anyway, it will come.

11 **THE COMMISSIONER:** No, no.

12 **MR. SHERRIFF-SCOTT:** I'm just very concerned
13 about the sort of gravity of the implications here for this
14 individual and I'll get to the transcript in my cross-
15 examination, but I don't know whether we're going to get
16 there by the end of the day. That's all I wanted to add.

17 Thank you.

18 **THE COMMISSIONER:** Let's take a break.

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

21 The hearing will resume at 3:25.

22 --- Upon recessing at 3:11 p.m./

23 L'audience est suspendue à 15h11

24 --- Upon resuming at 3:35 p.m.

25 L'audience est reprise à 15h35.

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

3 This Hearing of the Court on Public Inquiry
4 is now in session. Please be seated. Veuillez vous
5 asseoir.

6 **MR. KOZLOFF:** Good afternoon, sir.

7 **THE COMMISSIONER:** Good afternoon, Mr.
8 Kozloff.

9 **MR. KOZLOFF:** Mr. Dumais tells me that the
10 plan is to sit until 4:30?

11 **THE COMMISSIONER:** Yes.

12 **MR. KOZLOFF:** May I respectfully request
13 perhaps 10 minutes earlier than that, so that I can get to
14 the train without ---

15 **THE COMMISSIONER:** So 4:15.

16 **MR. KOZLOFF:** Thank you.

17 **THE COMMISSIONER:** And I thought this was a
18 serious -- well it is; it's probably very serious.

19 **(LAUGHTER/RIRES)**

20 **THE COMMISSIONER:** Mr. Cipriano?

21 **MR. CIPRIANO:** Good afternoon, Mr.
22 Commissioner. I just wanted to update you on the issue of
23 the judicial review.

24 **THE COMMISSIONER:** Yes.

25 **MR. CIPRIANO:** I still don't have an update

1 from the Court of Appeal. We've sent another request and,
2 as far as I know, my assistant still does not -- or my
3 office still does not have an update from the Court of
4 Appeal.

5 **THE COMMISSIONER:** You've got until 4:15.

6 **MR. CIPRIANO:** Okay. In that case, would I
7 be able to renew my application or ---

8 **THE COMMISSIONER:** Well, not at 4:15. At
9 four o'clock.

10 **MR. CIPRIANO:** Okay.

11 **THE COMMISSIONER:** Because there's the Court
12 of Appeal, but there's Divisional Court. I though your
13 first step is Divisional Court?

14 **MR. CIPRIANO:** Yes, but in order to
15 consolidate the two matters, I would want to seek the
16 instruction from the Court of Appeal, since the matter is -
17 - one matter is already at the Court of Appeal and there is
18 deadlines in place already.

19 **THE COMMISSIONER:** At your peril.

20 **MR. CIPRIANO:** We did actually, as well,
21 contact the Superior Court and there's no response from the
22 Superior Court either.

23 **THE COMMISSIONER:** What can I say?

24 Mr. Lee, you've got till 4:00 o'clock. Not
25 to finish but just to ---

1 **MR. LEE:** I'll do my best to finish by then.
2 During the break, I had an opportunity to
3 review the document that Mr. Sherriff-Scott was referring
4 to. I think I should put it to the witness, at this point.
5 It is Document Number 110855. This is a transcript of the
6 Examination for Discovery of Mr. MacDonald, that was done
7 on March 27th, 1996.

8 **THE REGISTRAR:** One one zero eight five five
9 (110855) is it a transcript?

10 **MR. LEE:** One one zero eight five five
11 (110855) is the number I have. I'm told the Diocese
12 provided notice of this document. If it helps, it's a
13 thick thick document, it's almost 200 pages.

14 **THE COMMISSIONER:** I don't know if ---

15 **MR. DUMAIS:** You might find it in 110857,
16 Tab 25.

17 **THE COMMISSIONER:** Well there was some
18 question ---. You wouldn't have it Mr. MacDonald?

19 **MR. LEE:** Can we try Document 738017? Okay,
20 let's go with that, it's the same document just different
21 document number.

22 **THE COMMISSIONER:** Exhibit number 236, is --
23 what is this now? Okay, this looks like the Examination
24 for Discovery document?

25 ---EXHIBIT NO./PIÈCE NO P-236:

1 (738017) Ontario Court (J.M.) v. Father
2 Charles MacDonald, Bishop Adolphe Proulx and
3 the Roman Catholic Episcopal Corporation -
4 March 27, 1996.

5 **MR. LEE:** Yes, that's right. It's a
6 transcript of the Discovery.

7 **THE COMMISSIONER:** And we're going to say
8 it's -- name of witness, John David MacDonald, examined by
9 Mr. Hebert and Mr. Annis, 2 through to 196, number of pages
10 196.

11 **MR. CIPRIANO:** Sorry Mr. Commissioner, with
12 respect to this document, I am wondering whether -- because
13 these documents also contain details of the allegations.
14 And, I am wondering whether they should also be part of the
15 interim publication ban?

16 **THE COMMISSIONER:** No, no, no. You can't do
17 that like this. You got to say "Your Honour, I object" and
18 I want to hear the spots and so then, we go through the
19 whole thing again about whether it should or should not.
20 It's not just because there are allegations. It depends on
21 the context and what's going to be used of it.

22 **MR. CIPRIANO:** Well, I don't have a problem
23 with this specific page being used. I just don't know if
24 the whole document ---

25 **THE COMMISSIONER:** The whole document is

1 going in, as an exhibit.

2 **MR. CIPRIANO:** Okay. So I would renew the
3 objection I had made yesterday.

4 **THE COMMISSIONER:** And where are the
5 portions? I need to assess, look at and see if it's true -
6 - do you have the specific spots?

7 **MR. CIPRIANO:** I don't have them outlined
8 right now, no.

9 **THE COMMISSIONER:** Go sit down. You find
10 them, we'll do it after.

11 **MR. CIPRIANO:** Okay.

12 **THE COMMISSIONER:** Let's go.

13 **MR. LEE:** I'd like to begin at page 145, I
14 don't have the Bates number given. I'm using a different
15 document number. It's not on the screen. Yes, the very
16 bottom of the screen. I'll start with -- Mr. MacDonald,
17 you understand that this is the transcript from your
18 Examination of Discovery from your civil action, is that
19 right?

20 **MR. MacDONALD:** Yes.

21 **MR. LEE:** So if we go to the bottom of that
22 page.

23 In response to question 1184, you say:

24 "Well, I went and saw a lawyer. I went
25 and saw a lawyer that Monday the 21st".

1 And you were asked:

2 "That was Mr. Geoffrey?"

3 "No, I met with Sean Adams at his
4 office".

5 And you continue:

6 "And again he handed me the three
7 options to deal with the Diocese,
8 criminal charges or a civil suit and he
9 told me to get a lawyer; that he could
10 not handle the case, that he was
11 wrapped up in the middle of it
12 anyways".

13 And question:

14 "With Mr. Silmser?"

15 And you reply:

16 "He didn't say any more than that".

17 The question

18 "Was that Sean Adams?"

19 "Sean Adams, yes, I've been working at
20 his house".

21 "Is that how you came to know him?"

22 "Oh yes, I knew him beforehand
23 anyways".

24 The question:

25 "You were working at his house?"

1 "Yes, but I knew him for years, we grew
2 up playing sports together".

3 The question:

4 "Did he tell you he was involved in the
5 Silmser matter or did you?"

6 Answer

7 "No, he said he can't get involved in
8 it because he is wrapped up in the
9 middle of the already. He left the
10 room for about five minutes".

11 Question:

12 "Did you tell him all the story?"

13 Answer:

14 "I showed him the letter".

15 Question:

16 "Did he tell him the story about all
17 the incidents and so on?"

18 Answer:

19 "I showed him the letter that I had
20 written the church".

21 Question:

22 "Oh, okay and did he ask you about the
23 incident and so on?"

24 The answer was:

25 "No, he didn't really ask any more than

1 that, except saying that he couldn't
2 get involved with it after he had
3 returned from somewhere. Like I said,
4 he left for about five minutes".

5 Do you recall being asked those questions
6 and giving those answers?

7 **MR. MacDONALD:** Yes.

8 **MR. LEE:** And does that refresh your memory
9 on what Mr. Adams told you?

10 **MR. MacDONALD:** Yes.

11 **MR. LEE:** So it would appear from this and,
12 do you would agree that, at some point, Mr. Adams did tell
13 you that he was involved in this matter.

14 **MR. MacDONALD:** Yes.

15 **MR. LEE:** Do you recall him telling you how
16 he was involved in the matter?

17 **MR. MacDONALD:** No.

18 **MR. LEE:** At some point here, in what I've
19 read, you were asked the question -- you say:

20 "He was wrapped up in the middle of it
21 anyways."

22 And the question asked:

23 "With Mr. Silmser?"

24 And you replied:

25 "He didn't say any more than that."

1 **MR. MacDONALD:** Correct.

2 **MR. LEE:** Did you understand at this point,
3 that Mr. Adams had prior dealings with David Silmser?

4 **MR. MacDONALD:** Yes.

5 **MR. LEE:** You were aware that he had
6 represented David Silmser in the past?

7 **MR. MacDONALD:** Yes.

8 **MR. LEE:** Is that how you came to go to Mr.
9 Adams for this particular matter?

10 **MR. MacDONALD:** How I ---

11 **MR. LEE:** You knew Mr. Adams beforehand.

12 **MR. MacDONALD:** Correct.

13 **MR. LEE:** Did you go to Mr. Adams because of
14 that far relationship or because you knew he had
15 represented David Silmser in the past?

16 **MR. MacDONALD:** I was working at his office
17 at the time.

18 **MR. LEE:** So it was convenience?

19 **MR. MacDONALD:** That's right.

20 **MR. LEE:** Okay, that's all I'd like to ask
21 you about that.

22 **MR. MacDONALD:** Thank you.

23 **MR. LEE:** Other than the -- you've told us
24 that you received funding from the Diocese for counselling,
25 is that correct?

1 **MR. MacDONALD:** Correct.

2 **MR. LEE:** Have you ever, at any point,
3 received any other money from the Diocese?

4 **MR. MacDONALD:** No.

5 **MR. LEE:** Have you ever received money from
6 any other institution dealing with these allegations?

7 **MR. MacDONALD:** No.

8 **MR. LEE:** You've never received money from
9 any other source at all?

10 **MR. MacDONALD:** No.

11 **MR. LEE:** You explained to us yesterday
12 that, what really triggered you to come forward was an
13 article in the paper about Father MacDonald suing David
14 Silmsler for defamation? Is that correct?

15 **MR. MacDONALD:** Correct.

16 **MR. LEE:** Do you recall if that article in
17 the paper, named Father MacDonald?

18 **MR. MacDONALD:** I can't recall.

19 **MR. LEE:** Did you know, at the time, that it
20 was Father MacDonald and David Silmsler that that article
21 was about?

22 **MR. MacDONALD:** Yes.

23 **MR. LEE:** So at that time, before you came
24 forward, you knew about Mr. Silmsler's allegations against
25 Father MacDonald?

1 **MR. MacDONALD:** Correct.

2 **MR. LEE:** You knew something about Perry
3 Dunlop or his involvement in the affair? Did you, at that
4 point, know that a police officer ---

5 **MR. MacDONALD:** I'm not sure; there might
6 have been stories in the paper between the time I got back
7 from B.C. and the time I wrote the letter to Kevin Maloney.

8 **MR. LEE:** You knew by that point that --
9 you've told us that David Silmser was being sued by Father
10 MacDonald, in response to David Silmser's lawsuit against
11 Father MacDonald?

12 **MR. MacDONALD:** Correct.

13 **MR. LEE:** So you knew, at the very least,
14 that much. And is it fair to say that you knew that the
15 police had been dealing with David Silmser and with this
16 cast of characters prior to that time, obviously if it got
17 up to that point?

18 **MR. MacDONALD:** Correct.

19 **MR. LEE:** I'd like to take you to Exhibit
20 234. These are police notes that we've already looked at.
21 I don't know who the author is, they're Cornwall Police
22 notes. And, I'd like to take you to the second page, to
23 the very top of the second page, there's a continuation of
24 a note from August 22nd. I'm interested in the note on
25 August 23rd. Maybe a third of the way down the page is an

1 entry that starts at 10:21. It reads:

2 "10:21 from John MacDonald. Advised
3 him David Silmser's phone calls to me,
4 told him I wasn't confirming that he
5 was a victim ---"

6 **THE COMMISSIONER:** Madam Clerk, could you
7 scroll down please?

8 **MR. LEE:**

9 "--- told him I wasn't confirming that
10 he was a victim without John's
11 permission. He knows that David's
12 calling and he wants to distance
13 himself from Dave."

14 So you've been -- we've seen that already in your
15 testimony; is that correct?

16 **MR. MacDONALD:** Correct.

17 **MR. LEE:** And it appears from this, that Mr.
18 Silmser was calling the Cornwall Police station about your
19 allegations.

20 **MR. MacDONALD:** It sounds that way.

21 **MR. LEE:** And was that your understanding at
22 the time? Did you understand that David Silmser was
23 calling the station about yours?

24 **MR. MacDONALD:** I'm not sure.

25 **MR. LEE:** But you did tell the police that

1 you wanted to distance yourself from ---

2 **MR. MacDONALD:** Correct.

3 **MR. LEE:** And you've explained to us that
4 Dave is Dave and John is John. Is that right?

5 **MR. MacDONALD:** Correct.

6 **MR. LEE:** Would you agree with me that
7 there's nothing in this note that says anything about the
8 police advising you that it's not a good idea for David
9 Silmser to be calling about your allegations?

10 **MR. MacDONALD:** There is nothing in there
11 that says that.

12 **MR. LEE:** Do you recall any conversation
13 about that? Were you told around this time that you should
14 keep your distance from David Silmser?

15 **MR. MacDONALD:** No.

16 **MR. LEE:** I'd like to look at another
17 notebook entry, and this is document -- this is not an
18 exhibit yet. It's document 728528. And again, these are
19 police notes. And again, I don't know who the author is,
20 but I know they're related to Cornwall Police.

21 **THE COMMISSIONER:** Exhibit 237 is Doc.
22 Number 7113671.

23 **---EXHIBIT NO./PIÈCE NO P-237:**

24 (728528) Handwritten Officer's Notes -
25 Author Unknown - August 22, 1995.

1 **MR. LEE:** Mr. Commissioner, I should advise
2 again that there are names of victims of abuse, listed in
3 this document ---

4 **THE COMMISSIONER:** That are subject matter
5 of a publication ban already?

6 **MR. LEE:** One of them is, yes. If you look
7 on that sheet, Mr. Commissioner, on perhaps 10 lines down,
8 there is the name John MacDonald and then there are two
9 names, following that. The first of those is being known
10 as C-3. The second of those names, is not on Mr. Dumais'
11 list as being covered, at this point.

12 **THE COMMISSIONER:** All right, was he ever
13 covered before?

14 **MR. LEE:** I don't know, sir. I don't know
15 who this person is. I know only, that based on this
16 document, he appears to be a victim of abuse.

17 **THE COMMISSIONER:** All right, any comments
18 with respect to a publication ban on the name --. We're
19 going to have to go back in camera some time. Oh no or we
20 could do it this way and say there is a ban on publication,
21 with respect to the name found on line -- right below the
22 name C-3, I don't know. So, the ban on publication of that
23 name, in any event. That's found on the 11th line of this
24 document.

25 **MR. LEE:** And the first name is reproduced,

1 three lines later.

2 **THE COMMISSIONER:** Once we have the name.

3 **MR. LEE:** Okay, that's fine. Now the reason
4 I'm putting this document to you, Mr. MacDonald, is I'm
5 frankly a little bit confused. I'm not exactly sure what
6 it means and I'm hoping that you can provide some clarity.
7 I have handwritten in the margin, what I believe to be what
8 this says, and please follow along and let me know if you
9 get anything different. Again, the entry is 10:30 on the
10 22nd of August 1995. And it reads:

11 "10:21 - From David Silmser, if
12 anything I can do to help out."

13 There's a phone number there, followed by "Manotick", and
14 then:

15 "Been a long time, he and John know of
16 other name, John MacDonald."

17 A name reproduced that we now know as C-3, the name that we
18 just dealt with.

19 "/his mom phoned, when Charlie
20 MacDonald was at St. Columbus, that
21 person's mom complained about this
22 Carson Chisholm."

23 And my reading of it is there is a period
24 there, a full stop, and then it reads:

25 "Also an altar boy from Apple Hill was

1 going to come forward but found two
2 days later on the train tracks..."

3 The next word, I can't make it out, something:

4 "...parents wrote a letter 25 years ago
5 to church..."

6 John's presumably.

7 "He talked to Charlie Greenwell, said
8 "Who do you think gave it to me, paying
9 \$178. Police...Cornwall Police pissed
10 off at Dunlop and his wife, phoning me
11 three times a day. Going to see this
12 thing out. Heads are going to roll if
13 this is hushed up in relation to latest
14 complaint."

15 Do you agree with me that that appears to be
16 what that document says?

17 **MR. MacDONALD:** Something like that anyways.

18 **MR. LEE:** Do you know anything about this
19 document?

20 **MR. MacDONALD:** No.

21 **MR. LEE:** You weren't involved, obviously,
22 in creating this document?

23 **MR. MacDONALD:** No.

24 **MR. LEE:** Did you ever tell anybody that
25 heads were going to roll if things didn't get moving?

1 **MR. MacDONALD:** No.

2 **MR. LEE:** Would you agree with me that it
3 appears from this document that this is a police officer
4 relating a phone call received from David Silmser and that
5 what's reported there is the conversation with David
6 Silmser?

7 **MR. MacDONALD:** I don't know.

8 **MR. LEE:** Would you agree, given the date of
9 this document being August 22nd, '95 that at the very least,
10 the latest complaint referred to on the last page is likely
11 your complaint?

12 **MR. MacDONALD:** I don't know.

13 **MR. LEE:** Fair enough.

14 I would like to take you to another
15 document, 118757. There are no confidentiality concerns
16 with this document. These again are officer notes from the
17 Cornwall Police Service dated the next day, August 23rd,
18 '95.

19 **THE COMMISSIONER:** We'll make that the last
20 line of questioning because I'm afraid that Mr. Cipriano's
21 matter might push into the train schedule.

22 **MR. LEE:** Mr. Commissioner, I have four more
23 documents in relation to this line of questioning. So do
24 you want this to be the last document and end there or do
25 you want ---

1 **THE COMMISSIONER:** Yes.

2 **MR. LEE:** Okay. That's fine.

3 Bates page 7172519.

4 **THE COMMISSIONER:** So Exhibit 238 is notes
5 dated -- from a Steno 120 pages Blueline, August 2nd, 1995
6 to September 30th, 1995.

7 **--- EXHIBIT NO./PIÈCE NO. P-238:**

8 (118757) Handwritten Officer's Notes -
9 Author Unknown - August 16, 1995

10 **THE COMMISSIONER:** You want to go to?

11 **MR. LEE:** Bates page 7172519. And that's
12 dated August 23rd, 1995, and I believe that says 18:30 at
13 the top, being the time. It reads:

14 "Spoke with Inspector Tim Smith, OPP
15 Kingston, about our recent case
16 involving an allegation against Father
17 Charlie by way of letter written by
18 John MacDonald..."

19 And then the occurrence number.

20 "I also advised him that D.S. was
21 phoning a number of officers at the
22 Cornwall PS stating what are we going
23 to do about this allegation made by Mr.
24 MacDonald."

25 Do you recall -- so again, at this time we

1 now have a note from the Cornwall Police going to the OPP
2 advising that Mr. Silmser was involving himself in the
3 investigation and pushing things along and asking what was
4 going to be done.

5 Were you made aware of this at that time?

6 **MR. MacDONALD:** No.

7 **MR. LEE:** And again, by August 23rd, to the
8 best of your recollection, had anybody warned you that you
9 shouldn't be dealing with David Silmser?

10 **MR. MacDONALD:** No.

11 **MR. LEE:** I intend to go to another
12 document, Mr. Commissioner. So if you want to stop there?

13 **THE COMMISSIONER:** Let's stop now.

14 So, Mr. Cipriano, there's a number of
15 questions, I guess.

16 **MR. CIPRIANO:** Yes.

17 **THE COMMISSIONER:** Wait a minute now. When
18 are we coming back for the witness? How much time are we
19 going to need to complete this witness? I guess that's the
20 first question.

21 **MR. DUMAIS:** I guess the best answer to that
22 is around four hours.

23 **THE COMMISSIONER:** Okay.

24 **MR. DUMAIS:** So a full day, I expect.

25 **THE COMMISSIONER:** So when do we have a date

1 for that?

2 **MR. DUMAIS:** Well, our next -- we are
3 sitting next week. None of those dates were available.
4 The next sitting date after that is January the 15th.

5 **THE COMMISSIONER:** Right.

6 **MR. DUMAIS:** The only difficulty with that
7 date is that's a Monday and we're scheduled to start at
8 2:00 on that day.

9 **THE COMMISSIONER:** Okay. We'll put him on
10 Tuesday then.

11 **MR. DUMAIS:** All right.

12 **THE COMMISSIONER:** Tuesday, the 16th.

13 **MR. DUMAIS:** So then January 16th at 9:30
14 a.m.

15 **THE COMMISSIONER:** All right. Satisfactory.
16 Thank you very much.

17 Yes, sir.

18 --- SUBMISSION BY/REPRÉSENTATION PAR MR. GIUSEPPE CIPRIANO

19 **MR. CIPRIANO:** Yes. Firstly, with respect
20 to the ---

21 **THE COMMISSIONER:** So you're free to stay
22 there, if you wish, to listen in. You're free to go sit or
23 you're free to go.

24 **MR. MacDONALD:** I might sit back there.

25 **THE COMMISSIONER:** Terrific. Thank you.

1 **MR. CIPRIANO:** With respect to Exhibit 236,
2 which would be Document Number 738017, the pages I'm
3 interested in are at ---

4 **THE COMMISSIONER:** Well, before we get
5 there, why don't we get to the beginning about your -- you
6 want to bring a judicial review.

7 **MR. CIPRIANO:** Yes.

8 **THE COMMISSIONER:** And I've asked you -- I
9 am not prepared to extend an interim ban indefinitely.

10 **MR. CIPRIANO:** Okay.

11 **THE COMMISSIONER:** So ---

12 **MR. CIPRIANO:** Perhaps because I don't yet
13 have an answer from neither of the two courts, would you be
14 prepared to extend it at least until the end of day
15 tomorrow so I can -- if I can get an answer, I could
16 communicate with your counsel as to when a date can be
17 fixed. I'm advised that if it's in the Divisional Court,
18 dates can be fixed at any time in the week.

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

20 **MR. CIPRIANO:** And so it may be that a date
21 is available right away.

22 **THE COMMISSIONER:** Well, you see, what I'm
23 concerned about is this. We're not sitting anymore until
24 next week, and so the whole idea of an interim publication
25 ban is the longer it goes, the less effect this whole thing

1 has. And so I want matters to be dealt with.

2 So if you tell me tomorrow, "Well, the
3 Divisional Court is going to hear me in February," I think
4 we're going to have a problem, but we're not going to have
5 any chance to be able to address that.

6 So what's the solution to that?

7 **MR. CIPRIANO:** Well, we are sitting next
8 week and we can address it on Monday when we reconvene.

9 In previous cases, they have heard it on an
10 emergency basis. So it's simply a matter of scheduling.

11 **THE COMMISSIONER:** Yes. Okay.

12 **MR. MANSON:** I had sent Mr. Cipriano a note
13 saying I couldn't find any route to do what it is he
14 proposes to do, but there is ---

15 **THE COMMISSIONER:** Mr. Manson, we need to
16 have you at the podium.

17 **MR. MANSON:** Sorry.

18 **THE COMMISSIONER:** You have to get
19 unplugged.

20 **MR. MANSON:** Because I have to read this to
21 you. I didn't realize this was there, section 6(2) of the
22 *Courts of Justice Act*:

23 "The Court of Appeal has jurisdiction
24 to hear and determine an appeal that
25 lies to the Divisional Court or to the

1 Superior Court of Justice if an appeal
2 in the same proceedings lies to and is
3 taken to the Court of Appeal. The
4 Court of Appeal may, on motion,
5 transfer an appeal that's already been
6 commenced in the Divisional Court and
7 Superior Court of Justice to the Court
8 of Appeal for the purposes of
9 subsection (2)."

10 I'm advised by Peter Wardle and Mr.
11 Sherriff-Scott that his appeal in the Court of Appeal is
12 being dealt with as a leave application in writing next
13 Friday, the 22nd.

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

15 **MR. MANSON:** So it seems to me that if Mr.
16 Cipriano wants to hitch his wagon to that train, he's got
17 to get an order from the Court of Appeal so that he can
18 participate in the December 22nd ---

19 **THE COMMISSIONER:** And I thank you for that,
20 and that's all very instructive, except I am only concerned
21 about this Inquiry.

22 **MR. MANSON:** Yes.

23 **THE COMMISSIONER:** And I'm concerned that
24 appeals -- and again, let me be very clear -- I'm very
25 happy that people are taking my decisions so seriously and

1 bringing them up to the Superior Courts for wiser thoughts,
2 and that's great, but what I do have concerns about is the
3 manner in which it's being done because when we're dealing
4 with publication bans, the passage of time nullifies any
5 effect that a non-publication order would have, like as in
6 let's get it out to the public. Old news is no news.

7 **MR. MANSON:** I agree with you, Mr.
8 Commissioner.

9 You know, we opposed both of these
10 publication bans. I'm merely indicating that if Mr.
11 Cipriano wants to do it, he has to do a lot of work very,
12 very quickly.

13 **THE COMMISSIONER:** Right. Now we've got it.

14 **MR. MANSON:** Well, within -- he has a couple
15 of days to get an appeal launched and a motion in front of
16 a Court of Appeal judge to try and be on the December 22nd
17 train.

18 **THE COMMISSIONER:** All right.

19 And Mr. Sherriff-Scott says?

20 **MR. SHERRIFF-SCOTT:** I'm just saying that
21 from a procedural point of view, the motion next Friday is
22 the written leave application which will be disposed of by
23 a full panel. They have set a provisional date of January
24 5 for the full appeal, if it goes that far. He has a direct
25 route to the Court of Appeal as opposed to a leave app

1 because he hasn't been at Divisional Court. So he would
2 have to move to join the appeal only if leave is granted.
3 It's a procedural mess, but ---

4 **THE COMMISSIONER:** Right. Exactly.

5 And what I'm saying is that that's your
6 problem. I don't want you coming here, limping in here and
7 saying, "Well, I can't do this. I can't do that." There
8 are ways of getting things done. That's your problem. All
9 right?

10 And I'm saying to you I'm going to give you
11 -- in fairness, I'll give you until Monday. I can tell you
12 that if you do not have a date by Monday, you will have to
13 give me very, very sound argument as to why I should extend
14 this.

15 **MR. CIPRIANO:** Okay.

16 **THE COMMISSIONER:** Is that okay?

17 **MR. CIPRIANO:** Yes.

18 **THE COMMISSIONER:** All right.

19 So the interim ban is put over to that date.

20 Now, sir, in this document you're saying
21 that -- is it the same three incidents we're talking about,
22 essentially?

23 **MR. CIPRIANO:** Yes.

24 **THE COMMISSIONER:** All right.

25 So where are we?

1 **MR. CIPRIANO:** They're at Bates numbers
2 7162317.

3 **THE COMMISSIONER:** Just give me the page
4 number, sir, on the transcript or the line numbers.

5 **MR. CIPRIANO:** It would start at page 63
6 through to 65.

7 **THE COMMISSIONER:** So I'm going to go
8 through this and let people leave when they can. What I
9 propose to do is give the same type of relief as an interim
10 relief on this matter.

11 So from line 500 to which line?

12 **MR. CIPRIANO:** Through to ---

13 **THE COMMISSIONER:** It looks like about 511?

14 **MR. CIPRIANO:** Yes.

15 **THE COMMISSIONER:** All right.

16 Next?

17 **MR. CIPRIANO:** Next would be page 87, I
18 guess, starting at line 715 ---

19 **THE COMMISSIONER:** Yes.

20 **MR. CIPRIANO:** --- through to page ---

21 **THE COMMISSIONER:** It looks about 734?

22 **MR. CIPRIANO:** --- 734. Are you on page 89?

23 **THE COMMISSIONER:** I'm at line 734, page 89.

24 **MR. CIPRIANO:** Okay. Yes, sorry.

25 And finally, I'm looking at page 105,

1 starting at line 853 through to line, I guess, 872.

2 **THE COMMISSIONER:** Well ---

3 **MR. CIPRIANO:** Or 871.

4 **THE COMMISSIONER:** Okay, 871.

5 So that's what I propose, to order those
6 lines as an interim publication ban.

7 Is there anyone opposed to that at this
8 point? No one rising.

9 I think it's time that we all took our train
10 ride or plane ride.

11 We'll break for the weekend and we'll come
12 back on Monday at 2:00. Thank you.

13 **MR. CIPRIANO:** Thank you.

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

16 The hearing is now adjourned.

17 --- Upon adjourning at 4:06 p.m./

18 L'audience est ajournée à 16h06

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

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I, Jamie Savard 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, Jamie Savard, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hauts sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.

Jamie Savard

Jamie Savard, CR