

**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 333

Held at :

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

Tuesday, January 13, 2009

Tenue à:

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

Mardi, le 13 janvier 2009

Appearances/Comparutions

Ms. Brigitte Beaulne	Registrar
Ms. Mary Simms Ms. Kelly Doctor	Commission Counsel
Mr. John E. Callaghan	Cornwall Community Police Service and Cornwall Police Service Board
Ms. Diane Lahaie	Ontario Provincial Police
Mr. Darrell Kloeze	Attorney General for Ontario
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
M ^e Gisèle Levesque	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Michael Neville	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
Mr. William Carroll Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Mr. Lorne McConnery	

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1 --- Upon commencing at 9:35 a.m./

2 L'audience débute à 9h35

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, Commissioner, presiding.

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Good morning, all. Good
10 morning, Ms. Simms.

11 **MS. SIMMS:** Mr. Commissioner, the next
12 witness is Lorne McConnery.

13 **THE COMMISSIONER:** Thank you.

14 **MS. SIMMS:** And he's just coming forward
15 now.

16 **THE COMMISSIONER:** Thank you.

17 Good morning, sir.

18 **LORNE McCONNERY, Sworn/Assermenté:**

19 **THE COMMISSIONER:** Thank you.

20 Good morning, sir. Have a seat.

21 **MR. McCONNERY:** Thank you.

22 **THE COMMISSIONER:** So as is usual, there's
23 fresh water, and hopefully the glasses are whole and they
24 don't leak.

25 The microphone is there for you to speak

1 into.

2 MR. McCONNERY: Okay.

3 THE COMMISSIONER: Documents will either be
4 shown in hard copy or on the screen. Take whichever one
5 you prefer.

6 Please answer the questions to the best of
7 your ability and if you have any difficulties or you need a
8 break, let me know and we'll accommodate you.

9 MR. McCONNERY: Thank you, sir.

10 THE COMMISSIONER: All right? Thank you.

11 Go ahead.

12 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.

13 SIMMS:

14 MS. SIMMS: Mr. McConnery, I understand you
15 first became involved in the matters that we are looking at
16 in the spring of 2001?

17 MR. McCONNERY: That's correct.

18 MS. SIMMS: And that's when you were
19 assigned carriage of the Charles MacDonald prosecution?

20 MR. McCONNERY: Yes, that's accurate.

21 MS. SIMMS: And I understand you also
22 reviewed a number of investigative briefs and provided --

23 -

24 MR. McCONNERY: Yes, I did.

25 MS. SIMMS: Sorry. And you provided an

1 opinion?

2 MR. McCONNERY: Yes.

3 MS. SIMMS: Okay. So we are going to be
4 discussing today some of your work in that regard.

5 MR. McCONNERY: M'hm.

6 MS. SIMMS: I'm going to start with a few
7 questions about your background.

8 MR. McCONNERY: Okay.

9 MS. SIMMS: And I'd ask that you look at a
10 document which is a career profile, Document Number 200343.

11 THE COMMISSIONER: Yes, thank you.

12 Exhibit 3035 is the exhibit for Mr.
13 McConnery's career profile.

14 --- EXHIBIT NO./PIÈCE NO. P-3035:

15 (200343) Career Profile of Lorne McConnery

16 MS. SIMMS: So, Mr. McConnery, this is a
17 summary of your -- a brief summary of your many years of
18 experience. Is that correct?

19 MR. McCONNERY: Yes, it is.

20 MS. SIMMS: And have you had a chance to
21 review this document?

22 MR. McCONNERY: I drafted it myself.

23 MS. SIMMS: Okay. So it is correct?

24 MR. McCONNERY: Yes.

25 MS. SIMMS: Okay. So just very briefly, you

1 were called to the Bar in 1973?

2 MR. McCONNERY: Yes, that's accurate.

3 MS. SIMMS: And you practised for one year
4 in private practice?

5 MR. McCONNERY: Yes.

6 MS. SIMMS: And then you joined the Ministry
7 of the Attorney General as an assistant Crown Attorney in
8 Ottawa?

9 MR. McCONNERY: Correct.

10 MS. SIMMS: And you continued your work as a
11 Crown Attorney in Ottawa, then in Brampton and Ottawa
12 again, in Newmarket and Barrie?

13 MR. McCONNERY: Yes.

14 MS. SIMMS: Okay. And through the years of
15 experience you had, you had extensive experience in
16 conducting trials?

17 MR. McCONNERY: Yes.

18 MS. SIMMS: Okay. And I understand you've
19 noted that you were a lead prosecutor in many homicides,
20 sexual assaults, armed robberies, major frauds and
21 conspiracy charges?

22 MR. McCONNERY: Yes.

23 MS. SIMMS: So you've had experience
24 prosecuting sexual assaults?

25 MR. McCONNERY: Yes.

1 **MS. SIMMS:** And does that include multi-
2 victim sexual assault prosecutions?

3 **MR. McCONNERY:** Yes, it does.

4 **MS. SIMMS:** Did you have prior experience
5 prosecuting historical sexual assault cases?

6 **MR. McCONNERY:** Yes.

7 **MS. SIMMS:** And were you ever involved, Mr.
8 McConnery, in prosecutions arising from a project such as
9 an institutional investigation or ---

10 **MR. McCONNERY:** I did one of the
11 prosecutions and it may have been no more than a
12 preliminary hearing that flowed out of the St. John's
13 Training School investigation. And in the -- the second
14 time I was a member of the Crown Attorney's Office in
15 Ottawa, I seem to think I did something that related to the
16 Alfred Training School investigation, but it's not clear to
17 me now what prosecution it was.

18 **MS. SIMMS:** So you hadn't had experience
19 being, say, a designated Crown in a major project of
20 institutional abuse or something of that nature?

21 **MR. McCONNERY:** No, I was not.

22 **MS. SIMMS:** And I understand, Mr. McConnery,
23 that you are now moving to a different phase of your
24 career?

25 **MR. McCONNERY:** Well, as you see, May 1, '74

1 was a pretty significant date. May 1, 2009 is 35 years
2 later.

3 **MS. SIMMS:** Right.

4 So you are ---

5 **MR. McCONNERY:** Retiring.

6 **MS. SIMMS:** --- nearing your retirement?

7 **MR. McCONNERY:** Yes.

8 **MS. SIMMS:** Thank you.

9 I guess I should ask, Mr. McConnery, just
10 generally, did you have experience in prosecutions of major
11 cases or complex long trials?

12 **MR. McCONNERY:** Certainly. The most complex
13 trials we usually do are homicides, or maybe the most
14 intense. I've done homicides, several homicides, including
15 one in Simcoe County, the trial -- what exceeded two years
16 as a trial. So doing a long and complex trial, I certainly
17 have some experience in that regard and I've done many
18 other homicides.

19 **MS. SIMMS:** Mr. McConnery, I'm going to move
20 to your assignment to the Charles MacDonald prosecution.

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** And I understand that you were
23 first spoken to about assuming carriage of the Charles
24 MacDonald prosecution in -- around April of 2001?

25 **MR. McCONNERY:** Correct. My best

1 recollection is that I received a call at home on the
2 Easter weekend of that year. So I don't know what the
3 actual date was, and I was called by the Regional Director
4 of Crown Operations for the Central-East Region, which is
5 the region that Barrie is in.

6 **THE COMMISSIONER:** And who would that have
7 been?

8 **MR. McCONNERY:** John Sotirakos.

9 **THE COMMISSIONER:** Sorry?

10 **MR. McCONNERY:** John Sotirakos, S-O-T-I-R-A-
11 K-O-S.

12 **THE COMMISSIONER:** Thank you.

13 **MS. SIMMS:** All right.

14 And he requested that you become involved in
15 this prosecution?

16 **MR. McCONNERY:** He just indicated to me that
17 Mr. Stewart had asked if he would see that I was interested
18 in becoming involved and it would mean likely spending a
19 considerable amount of time in the Ottawa area, and I was
20 given some time to consider it and I did and I said I would
21 do it.

22 **MS. SIMMS:** Okay.

23 And I'm just going to ask you to refer to a
24 document which is an email. It's Document Number 130338.

25 Mr. Commissioner, this is an email from

1 James Stewart to Lorne McConnery and others dated April 2nd,
2 2001.

3 **THE COMMISSIONER:** Thank you.

4 Exhibit 3036.

5 --- **EXHIBIT NO./PIÈCE NO. P-3036:**

6 (130338) E-Mail from James Stewart to Lorne
7 McConnery re: *R. v. MacDonald* dated April 2,
8 2001

9 **MS. SIMMS:** Mr. McConnery, do you recall
10 receiving this email?

11 **MR. McCONNERY:** Not particularly, no.

12 **MS. SIMMS:** I understand you're not a big
13 fan of email and computers?

14 **MR. McCONNERY:** No, but I do try to read
15 them, but to say I actually recall this one that's nine
16 years old almost, no, I don't.

17 **MS. SIMMS:** In any case, Mr. McConnery, the
18 document in the email, Mr. Stewart refers to a telephone
19 conversation with you ---

20 **MR. McCONNERY:** Yes.

21 **MS. SIMMS:** --- of that evening, and that's
22 April 2nd, 2002.

23 So do you recall him ---

24 **MR. McCONNERY:** Two thousand and one (2001).

25 **MS. SIMMS:** Two-thousand-and-one (2001),

1 sorry.

2 **MR. McCONNERY:** Yes.

3 **MS. SIMMS:** Do you recall having a
4 discussion with Mr. Stewart at the time you were assigned
5 this case?

6 **MR. McCONNERY:** Yes, I do recall generally a
7 conversation I had before I came to Ottawa on the first
8 occasion, yes.

9 **MS. SIMMS:** And do you recall, in this
10 discussion or others, being briefed on some of the
11 background of the Charles MacDonald prosecution and why you
12 were being asked to assume carriage?

13 **MR. McCONNERY:** Yeah, I don't think I could
14 tell you what I was briefed on at that point as opposed to
15 the first time I met with Mr. Stewart in Ottawa, but
16 certainly he gave me a little bit of the background. John
17 Sotirakos had given me a little bit of background. I think
18 at that point, primarily, the background related to the
19 Leduc matter.

20 **MS. SIMMS:** And in particular the finding or
21 the decision by Chadwick that resulted in Shelley Hallett -
22 --

23 **MR. McCONNERY:** Correct.

24 **MS. SIMMS:** Resulted in Shelley Hallett
25 withdrawing from Project Truth. Is that right?

1 **MR. McCONNERY:** Yes.

2 **MS. SIMMS:** So at this time in early April,
3 you had agreed to take the assignment, but you're still in
4 Barrie; correct?

5 **MR. McCONNERY:** Yes, that's correct.

6 **MS. SIMMS:** And you're still continuing the
7 work that you had already on your plate?

8 **MR. McCONNERY:** Yes.

9 **MS. SIMMS:** So you mentioned that they --
10 that there was a request that you relocate for some period
11 of time to Ottawa?

12 **MR. McCONNERY:** Yes. I don't know that that
13 was apparent to me on April 2nd. The original request had
14 come to me -- I believe they were still facing a trial date
15 in May. So certainly I would have to relocate for the
16 trial and for preparation of the trial but, you know, I
17 think my hope had been I'd be back in Barrie by July but
18 that didn't happen.

19 **THE COMMISSIONER:** I guess it's they rope
20 you in first and then they tell you the big story.

21 **MR. McCONNERY:** Absolutely. The bottom line
22 is very telling here.

23 **THE COMMISSIONER:** I think I felt that
24 before.

25 **MR. McCONNERY:** Yes.

1 **MS. SIMMS:** So, Mr. McConnery, at the time
2 there was a trial date set for May 28th of 2001 ---

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** --- in the Charles MacDonald
5 prosecution?

6 **MR. McCONNERY:** Yes.

7 **MS. SIMMS:** So initially it was your
8 understanding that the matter would proceed to trial on
9 that date. Is that fair?

10 **MR. McCONNERY:** My recollection is that we
11 were talking hopefully that we would still be able to
12 accommodate that trial date.

13 **MS. SIMMS:** Okay.

14 **MR. McCONNERY:** But I had no idea of the
15 scope of what I was getting into at that point, even to
16 prepare just for the MacDonald trial alone, it wasn't clear
17 to me.

18 **MS. SIMMS:** So in the ordinary course,
19 having been advised that there is a sexual assault
20 prosecution with multiple victims, not understanding the
21 full background, you anticipated that you would be prepared
22 to proceed to trial in a couple of months. Is that right?

23 **MR. McCONNERY:** Well, if that was a hard and
24 fast trial date and I had -- was able to free myself and
25 get to Ottawa and have five or six weeks, generally

1 speaking, that would be enough to get myself ready for even
2 a complex sexual assault trial. But as it turned out the
3 MacDonald matter and the Project Truth matter was a lot
4 more convoluted that I knew at that time.

5 **MS. SIMMS:** And were you in the course --
6 I'm not saying on April 2nd -- but in the course of your
7 discussions with the Regional Director and Mr. Stewart, was
8 it understood that you would be freed-up from your other
9 responsibilities to work on this full time?

10 **MR. McCONNERY:** Yes, right.

11 **MS. SIMMS:** And I take it you spent some
12 time in April making that happen by transferring files, et
13 cetera?

14 **MR. McCONNERY:** Yes.

15 **MS. SIMMS:** And through April you were still
16 located in Barrie. Is that correct?

17 **MR. McCONNERY:** Yes.

18 **MS. SIMMS:** So you at that time, as you were
19 discussing, had not actually reviewed any of the materials
20 on the Father Charles MacDonald prosecution?

21 **MR. McCONNERY:** I adopted eventually the
22 practice of trying to detail what I did on a daily basis
23 and that seems to commence in about June. So I know now
24 that the trial -- I recall the trial was adjourned so my
25 coming to Ottawa was delayed.

1 But did I do anything in Barrie in April in
2 preparation for MacDonald? I'm not sure. So when I go
3 back and look at my notes, my notes unfortunately start
4 maybe in May or early June.

5 **MS. SIMMS:** I think you do have notes
6 starting in early May, Mr. McConnery, and we'll get to
7 those.

8 **MR. McCONNERY:** Okay.

9 **MS. SIMMS:** But I guess what I'm asking is,
10 as of April 2nd you discuss being assigned but your not, at
11 that time, in full carriage of the file. Is that fair?

12 **MR. McCONNERY:** Well, I was agreeing to
13 undertake the Father MacDonald prosecution.

14 **MS. SIMMS:** And I understand there was a
15 number of issues that were discussed in April of 2001 and
16 we're going to go through both of them -- or two of them,
17 and one is the issue of an adjournment and one is the issue
18 of a number of boxes that had been disclosed by Perry
19 Dunlop that were now in the possession of the Ministry of
20 the Attorney General.

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** Okay. So just before we get to
23 that and for your reference as we're going forward, I
24 wanted to refer you to the indictment, the consolidated
25 indictment, that was before the court and before you at the

1 time you assumed carriage. So that is Exhibit 2264.

2 **THE COMMISSIONER:** So excuse me, Ms. Simms.

3 When you say the Dunlop documents in the
4 Attorney General's possession, I think we should make it
5 clear that we're talking -- we're not talking about the
6 delivery by Dunlop of the documents to the Attorney
7 General's office. Those are not the documents we're talking
8 about.

9 **MS. SIMMS:** You're right.

10 **THE COMMISSIONER:** All right.

11 **MS. SIMMS:** Let me just clarify.

12 **THE COMMISSIONER:** No, no. No, no.

13 **MS. SIMMS:** I was referring to nine boxes of
14 materials that had originally been delivered to the
15 Cornwall Police Service ---

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

17 **MS. SIMMS:** --- and were in the possession
18 of the OPP and the Crown.

19 **MR. McCONNERY:** And I think when I first
20 became involved, I became aware of those boxes and some of
21 the background of those boxes. It was a while longer
22 before I realized that there was other briefs delivered by
23 -- I don't think I knew that as early as April or May.

24 **MS. SIMMS:** Okay. We'll come to that, Mr.
25 McConnery.

1 **MR. McCONNERY:** Okay.

2 **MS. SIMMS:** So if we could look at Exhibit
3 2264.

4 **(SHORT PAUSE/COURTE PAUSE)**

5 **MS. SIMMS:** So, Mr. McConnery, this is an
6 indictment in *The Queen v Charles MacDonald*.

7 **MR. McCONNERY:** Yes.

8 **MS. SIMMS:** It's dated October 18th, 2000.
9 And this version is unsigned but I think that was rectified
10 in the course of things.

11 So in this indictment there are -- there's a
12 list of 19 charges with respect to 9 complainants.

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** And so this was the indictment
15 that was before the court at the time you were assigned to
16 the matter?

17 **MR. McCONNERY:** I have no recollection of
18 examining the indictment, but certainly this indictment
19 captures the charges that I was there to prosecute.

20 **MS. SIMMS:** Well, you became aware --
21 whether you became aware at the beginning of your
22 assignment or through the course of your work on this file
23 -- that there had been three sets of charges laid
24 ---

25 **MR. McCONNERY:** Yes.

1 MS. SIMMS: --- in this matter?

2 MR. McCONNERY: Yes.

3 MS. SIMMS: And that this indictment is the
4 result of a consolidation of the first and second set of
5 charges and then a further consolidation with respect to
6 the last complainant?

7 MR. McCONNERY: Yes.

8 MS. SIMMS: Okay.

9 MR. McCONNERY: Yes.

10 MS. SIMMS: Now, just as we're going
11 forward, I'm going to ask Madam Clerk to give you a list of
12 monikers. A number of the complainants listed in this
13 indictment have been granted confidentiality measures. And
14 they include -- well, Madam Clerk will give you the list,
15 but it's C-2, C-4, C-3, C-5 and C-8. So I just want you to
16 have that with you, Mr. McConnery, as we move forward and
17 if you could do your best to remember if any of those
18 individuals names come up they should be referred to by a
19 moniker.

20 MR. McCONNERY: So it's not all of the
21 complainants?

22 MS. SIMMS: It's not.

23 MR. McCONNERY: And were there any other --
24 you use the word "moniker". Is there anyone other than
25 complainants?

1 **THE COMMISSIONER:** No, not if -- we'll go
2 step-by-step and we're pretty good at that I think by now.

3 **MR. McCONNERY:** All right.

4 **MS. SIMMS:** So at the time you assumed
5 carriage of the file, Mr. McConnery, the trial date, as we
6 mentioned, was set for May 28th, 2001.

7 **MR. McCONNERY:** Correct.

8 **MS. SIMMS:** Now, the first set of charges
9 laid were laid on March 6th, 1996 and they related to David
10 Silmsler, John MacDonald and C-3.

11 **MR. McCONNERY:** Okay.

12 **MS. SIMMS:** So at the time that you're
13 becoming involved, and assuming the trial was going forward
14 in May of 2001, that's a significant amount of time that's
15 passed. It's been five years -- over five years.

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** Okay?

18 **MR. McCONNERY:** Yes.

19 **MS. SIMMS:** And, similarly, the second set
20 of charges were laid on January 26th, 1998. They relate to
21 C-8, C-4, C-5, Robert Renshaw and Kevin Upper.

22 **MR. McCONNERY:** Okay. Yes.

23 **MS. SIMMS:** I can refer you to a document,
24 and we've heard evidence on this and I don't think it's
25 controversial, and so that's been another three years --

1 over three years since those charges were laid?

2 MR. McCONNERY: Yes.

3 MS. SIMMS: And the final charges were laid
4 on April 10th, 2000.

5 MR. McCONNERY: Yes.

6 MS. SIMMS: So not too long before ---

7 MR. McCONNERY: Involving C-2.

8 MS. SIMMS: --- your involvement.

9 MR. McCONNERY: Yes.

10 MS. SIMMS: And involving C-2.

11 So did this become apparent to you
12 relatively early on in your involvement that this matter
13 had been going on for some time?

14 MR. McCONNERY: Yes.

15 MS. SIMMS: Would it ---

16 MR. McCONNERY: It certainly was. It was a
17 major concern to me from day one that we would be facing
18 11B application, and to be very frank about it, it was an
19 uphill battle for the Crown on some, if not most, of the
20 counts.

21 THE COMMISSIONER: An uphill battle in which
22 way?

23 MR. McCONNERY: In ---

24 THE COMMISSIONER: The 11B application?

25 MR. McCONNERY: Yes, exactly.

1 **THE COMMISSIONER:** All right.

2 **MR. McCONNERY:** Exactly.

3 **MS. SIMMS:** So it was apparent to you at
4 this time that there would likely be an 11B application
5 brought?

6 **MR. McCONNERY:** I think not only apparent, I
7 think I had been advised that there would be.

8 **MS. SIMMS:** Was this something you discussed
9 with Mr. Stewart on your briefings?

10 **MR. McCONNERY:** I don't recall specifically,
11 but likely.

12 **MS. SIMMS:** So we mentioned that the trial
13 date was set for May, but there was an issue with respect
14 to an adjournment that arose in April of 2001?

15 **MR. McCONNERY:** Yes.

16 **MS. SIMMS:** And do you recall being involved
17 in that adjournment request?

18 **MR. McCONNERY:** No, I was not involved in
19 that. I was advised that there would be an application for
20 an adjournment. We discussed whether or not,
21 realistically, the Crown could maintain a position that
22 would be ready for trial in May.

23 I believe my position was we would try to be
24 ready, in light of the fact that I have a very limited
25 knowledge about -- of -- about the scope of what I was

1 getting involved in, but that the application that was
2 going to be formally made to the court would not be argued
3 by me.

4 **MS. SIMMS:** So when you say you were advised
5 and you discussed the matter, who were you speaking with?

6 **MR. McCONNERY:** It was Jim Stewart, Mr.
7 Stewart.

8 **MS. SIMMS:** So did he advise you of the
9 reason for the adjournment request?

10 **MR. McCONNERY:** My recollection is that he
11 did advise me that it related to a trial that Mr. Neville
12 was involved in, another trial.

13 **MS. SIMMS:** Defence counsel for ---

14 **MR. McCONNERY:** Yes.

15 **MS. SIMMS:** --- Charles MacDonald?

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** And did you have any discussions
18 about a position to be taken by the Crown with respect to
19 waiver of 11B or requiring a waiver of 11B?

20 **MR. McCONNERY:** I certainly didn't give any
21 instruction in that regard. No, I wouldn't say I have any
22 recall about talking about waiver.

23 **MS. SIMMS:** Okay.

24 **MR. McCONNERY:** I mean, it was an
25 application -- my limited knowledge was, it was an

1 application by the defence to adjourn the trial.

2 MS. SIMMS: So the instructions that were
3 given to you -- the person who appeared, which I believe
4 was Kevin Phillips -- any discussions with defence counsel,
5 that was not handled by you?

6 MR. McCONNERY: No, it wasn't.

7 MS. SIMMS: Okay.

8 MR. McCONNERY: No, it wasn't. I -- as a
9 matter of fact, I have never met Mr. Phillips either.

10 MS. SIMMS: Okay.

11 THE COMMISSIONER: So, just by way of
12 background, from what I can see in one of the emails, he
13 was a Crown Attorney, or an assistant Crown Attorney.

14 MR. McCONNERY: Mr. Phillips, yes.

15 THE COMMISSIONER: And in the initial memo,
16 he was volunteered as someone who could help you out, along
17 with another person who could do motions and that kinds of
18 thing? Is that ---

19 MR. McCONNERY: That he could do motions?

20 THE COMMISSIONER: No, she could do ---

21 MR. McCONNERY: Or a third person?

22 THE COMMISSIONER: Yes, a third person.

23 That's how I recall the email.

24 MR. McCONNERY: Okay, I don't remember that.

25 THE COMMISSIONER: Yes, okay. Okay.

1 **MS. SIMMS:** I think the third person is
2 Bartlett-Hughes, is it?

3 **THE COMMISSIONER:** It's Christina --
4 Christine -- yes, I'm sorry, yes.

5 "Christine Bartlett-Hughes and Kevin
6 Phillips, are both -- are quite
7 prepared to assist in the case, with
8 Christine's role being to help with
9 legal motions."

10 And the other fellow, just there.

11 **MR. McCONNERY:** Yes.

12 **THE COMMISSIONER:** In fact, specify what
13 role he was going to ---

14 **MR. McCONNERY:** Ms. Bartlett-Hughes is a
15 member of the Criminal Law Division head office in Toronto.

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

17 **MR. McCONNERY:** My recollection, now that
18 you mention the name to me, is that on some of the legal
19 issues ---

20 **THE COMMISSIONER:** M'hm?

21 **MR. McCONNERY:** --- she would be available
22 to assist with research.

23 **THE COMMISSIONER:** Okay.

24 **MR. McCONNERY:** But Mr. Phillips and I would
25 be the hands-on eventually in Ottawa ---

1 **THE COMMISSIONER:** Exactly.

2 **MR. McCONNERY:** --- or in Cornwall.

3 **MS. SIMMS:** And Mr. Phillips was an
4 assistant Crown Attorney from the Ottawa office?

5 **MR. McCONNERY:** Yes, he was.

6 **MS. SIMMS:** Okay. And, in fact, I don't
7 think as early as April or May, but he became assigned
8 full-time to work with you on this matter?

9 **MR. McCONNERY:** That's correct.

10 **MS. SIMMS:** So we were just referring to the
11 adjournment request, and it was heard on April 25th, 2001.

12 I'm quickly going to refer you to the
13 transcripts from that date, which is Exhibit 2265.

14 **THE COMMISSIONER:** Next page.

15 **MS. SIMMS:** I'm sorry, it's Document Number
16 111236.

17 **MR. McCONNERY:** I have that transcript, yes.

18 **MS. SIMMS:** So, at this appearance,
19 Mr. Phillips attended and put forward the Crown's position
20 that they were seeking an 11B waiver ---

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** --- from the applicant, who was
23 the defendant, and with a position they would not oppose
24 the adjournment if a waiver was granted?

25 **MR. McCONNERY:** Yes.

1 **MS. SIMMS:** Okay. And the agent for the
2 defendant did not agree to waiving the 11B rights. I mean,
3 that's -- it sort of goes on for a while, but it's
4 mentioned on page 2. Mr. Selkirk says ---

5 **MR. McCONNERY:** Yes.

6 **MS. SIMMS:** "I'm simply not comfortable
7 to indicate there's a waiver of 11B."

8 **MR. McCONNERY:** Yes.

9 **MS. SIMMS:** And in the end, the adjournment
10 is granted and there is no waiver. Is that your
11 understanding of what happened on that day?

12 **MR. McCONNERY:** It is.

13 **THE COMMISSIONER:** Okay, but Mr. Selkirk,
14 the agent for Mr. Neville, is saying that:

15 "The reason why Mr. Neville can't go on
16 today is as..."

17 And I quote on page 2 of the transcript:

18 "...is as a result of a lack of due
19 diligence on behalf of the Crown in the
20 Lanark County and if it wasn't for
21 that, this matter would be proceeding
22 as scheduled."

23 Do you have any idea of what they're talking
24 about there, sir?

25 **MR. McCONNERY:** Well, I didn't at this time,

1 but I became aware later.

2 **THE COMMISSIONER:** So what did you become
3 aware of?

4 **MR. McCONNERY:** That there was an issue with
5 respect to a homicide that Mr. Neville was involved in, in
6 Lanark County, where the Crown had to ask for an
7 adjournment or delay in the trial to retain another expert,
8 or to provide an expert with further information, and it
9 delayed the trial as a result.

10 Mr. Neville's position was, you know, the
11 indivisible Crown, that Crown is delaying this trial. I
12 believe that was ---

13 **THE COMMISSIONER:** Okay.

14 **MR. McCONNERY:** --- sort of the ballpark
15 picture I got of it. I didn't agree with him, but I only
16 found out all that detail later.

17 **MS. SIMMS:** Well, it's an issue that's
18 raised later on in the 11B application?

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** And there's no decision
21 necessarily made, no finding made, in this adjournment.
22 The decision was that any argument should be left to the
23 trial judge?

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** I think that's at page 5.

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

2 **MS. SIMMS:** With regards to the issue of
3 11B waiver:

4 "Mr. Selkirk, on behalf of Mr. Neville,
5 is not in a position to waive the 11B
6 requirement and is indeed of the view
7 that the matter should be dealt with by
8 the trial judge should the issue be
9 brought up at that time. I do not
10 disagree with that."

11 So the question of who was responsible for
12 this adjournment was left undetermined?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** Okay. And during the
15 adjournment application, a day was set for March 18th, 2002,
16 for the trial to be heard?

17 **MR. McCONNERY:** Yes.

18 **MS. SIMMS:** So that is a further significant
19 delay, Mr. McConnery?

20 **MR. McCONNERY:** Absolutely.

21 **MS. SIMMS:** And did you become aware that
22 that was the date that was set following this adjournment
23 application?

24 **MR. McCONNERY:** Yes. Was -- this
25 application was April 25?

1 **MS. SIMMS:** Yes.

2 **MR. McCONNERY:** Yes, I was made aware of
3 this I think reasonably quickly after the adjournment was
4 granted because it would impact, obviously, on when I had
5 to get to Ottawa, or to get to Cornwall.

6 **MS. SIMMS:** And were you concerned about
7 the -- were you concerned about the length of the delay
8 that was incurred? So you've gone now from May of 2001 to
9 March of 2002?

10 **MR. McCONNERY:** Yes. I can -- I was
11 rather -- not only concerned, I was shocked that at this
12 stage of this indictment, an adjournment was 10 months
13 length. I thought that was outrageous. And I think in the
14 coming months, we took some steps to try to move it
15 forward, but we were just stonewalled with respect to the
16 availability of trial time.

17 **MS. SIMMS:** Okay. You have -- or you noted
18 in your materials on the stay application that you also
19 wrote a number of letters to defence counsel so you can
20 determine their availability for an expedited trial date?

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** Okay. And do you recall taking
23 those steps?

24 **MR. McCONNERY:** Oh, yes.

25 **MS. SIMMS:** And did you receive a response

1 on dates, that you recall?

2 **MR. McCONNERY:** I don't -- I don't recall
3 if -- I believe I wrote to Mr. Neville once, maybe twice.
4 I don't know if I received a written response from him.

5 **MS. SIMMS:** I don't have a reference to the
6 actual letters, Mr. McConnery, but I have reference to you
7 describing the steps you took in your -- in the
8 respondent's factum that was later filed?

9 **MR. McCONNERY:** Yes.

10 **MS. SIMMS:** So maybe I'll just ask you to
11 look at that?

12 **MR. McCONNERY:** Okay.

13 **MS. SIMMS:** It's Document Number 109594.

14 **THE COMMISSIONER:** Thank you.

15 Exhibit 3037 is the respondent's factum on
16 the issue of trial within a reasonable time in the case of
17 *Her Majesty the Queen v Charles F. MacDonald*. Exhibit
18 3037.

19 **--- EXHIBIT NO./PIÈCE NO. P-3037:**

20 (109594) - Respondent's Factum - Trial
21 Within a Reasonable Time re: Charles
22 MacDonald, undated

23 **MS. SIMMS:** And, Mr. McConnery, if you could
24 just refer to Bates page that ends 401 and that's page 24
25 in the regular page numbers.

1 **MR. McCONNERY:** Yes.

2 **MS. SIMMS:** And you refer to -- starting at
3 the end of that page, you refer to three letters.

4 One dated April 25th, 2001 which appears to
5 be indicating an interest in getting the trial underway at
6 a date earlier than had been set at the adjournment?

7 **MR. McCONNERY:** Yes.

8 **MS. SIMMS:** One dated May 11th, 2001 -- the
9 first letter, sorry, going to Mr. Selkirk, defence
10 counsel's agent.

11 The second letter dated May 11th, 2001 to the
12 defence counsel requesting a reply to your previous letter.

13 And a third letter dated May 24th, 2001
14 trying to ascertain Mr. Neville's interest in conducting
15 the trial at a time earlier than March 18th.

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** Okay. And you note in your
18 materials that you did receive a reply.

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** And the last letter is May 24th,
21 2001. Did you take any steps after that to ascertain if
22 you would be able to find an earlier trial date?

23 **MR. McCONNERY:** My recollection now is that
24 Mr. Neville and I first met and discussed the cases in any
25 fashion at all sometime during the summer of '01.

1 **MS. SIMMS:** Okay.

2 **MR. McCONNERY:** And so I don't think I
3 formally put anything in writing after that. I think we
4 talked about it and, you know, I appreciated Mr. Neville's
5 a very busy counsel and he wasn't going to be able to
6 adjust his schedule very easily, but -- so whether or not I
7 did, I don't think I ever did anything more formally in
8 writing, but there may have been some discussion and ---

9 **MS. SIMMS:** And did you just mention
10 earlier, Mr. McConnery -- did you make any inquiries with
11 the court about judicial resources and whether you would,
12 in fact, be able to get any earlier trial date?

13 **MR. McCONNERY:** In my review of my notes for
14 today, I don't see that I have any note to that effect.
15 I'm sure that I and Jim Stewart talked about that -- Mr.
16 Stewart -- and whether or not he was left to look at that
17 or not, I don't recall. We were very cognizant of the
18 issue. We were very aware of another 10-month delay.

19 **MS. SIMMS:** So another issue that is being
20 dealt with by the Crown in April is the issue of the boxes
21 that I just referenced, and those are nine boxes of
22 materials that Perry Dunlop, a former Cornwall Police
23 Service Constable, had delivered to the Cornwall Police
24 Service in the spring of 2000.

25 **MR. McCONNERY:** Yes.

1 **MS. SIMMS:** Okay. And this is an issue you
2 were aware of as well in April of 2001?

3 **MR. McCONNERY:** I -- I was aware of the --
4 what I'm going to refer to as the Dunlop boxes. I don't
5 know that I was aware of the full parameters of the problem
6 and the issues, but, yes, I was aware of it. Was I aware
7 as early as April? I'm not sure.

8 **MS. SIMMS:** Okay.
9 Well, I'm going to refer you to a document.
10 It may or may not refresh your memory. It's Document
11 Number 102622.

12 **THE COMMISSIONER:** Thank you.
13 Exhibit Number 3038 is an email transmission
14 from Terrance Cooper to Kevin Phillips et al on the 20th of
15 April, 2001.

16 **--- EXHIBIT NO./PIÈCE NO. P-3038:**
17 (102622) - E-mail from Terrance Cooper to
18 Lorne McConnery and others re: Dunlop boxes,
19 page numbering, dated April 20, 2001

20 **MS. SIMMS:** So, Mr. McConnery, I'm hoping to
21 sort of take you through some of the decisions that were
22 being made in April, 2001 with respect to those nine boxes
23 of materials.

24 This email from Terrance Cooper is copied to
25 you. Terrance Cooper was a Crown Attorney -- Assistant

1 Crown Attorney in Ottawa as well?

2 **MR. McCONNERY:** Mr. Cooper was counsel to
3 the Regional Director in the Eastern Region. He worked in
4 Mr. Stewart's office ---

5 **MS. SIMMS:** Okay, so ---

6 **MR. McCONNERY:** --- at that time.

7 **MS. SIMMS:** In April of 2001 then, he has
8 some involvement in the issue of the Dunlop boxes?

9 **MR. McCONNERY:** Yes.

10 **MS. SIMMS:** Okay.

11 In this email, which is sent by him is --
12 you are listed as one of the recipients?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** And this refers to the approach
15 that's going to be taken with respect to paginating and
16 tracking the materials in the Dunlop boxes?

17 **MR. McCONNERY:** Yes.

18 **MS. SIMMS:** Okay.

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** Were you part of the discussion
21 about implementing this approach to dealing with those
22 materials?

23 **MR. McCONNERY:** I don't really remember.
24 What I remember is that Mr. Cooper felt this was a good
25 system; a disclosure tracking system that was sort of tried

1 and tested in Project Toy and was suggested we do that. I
2 didn't think I really had enough knowledge about the boxes
3 to be jumping in and saying, no, we're going to do it this
4 way or that way.

5 MS. SIMMS: Okay.

6 MR. McCONNERY: I really didn't know what
7 was in the boxes.

8 MS. SIMMS: And, in essence, the approach
9 was to paginate each page of the materials and make a
10 number of copies?

11 MR. McCONNERY: Yes.

12 MS. SIMMS: Okay.

13 MR. McCONNERY: Yes. I remember by the time
14 I got to Ottawa, I'm spending considerable time with Mr.
15 Stewart determining that we should send it out to a private
16 photocopying firm to have multiple, multiple copies. My
17 recollection is there were over 10,000 pages in those boxes
18 ---

19 MS. SIMMS: M'hm.

20 MR. McCONNERY: --- and we couldn't just ask
21 one of the support staff from the Crown's office to do
22 this, so we sent it out to expedite it and we erred on the
23 side of caution by making 10 copies, I believe. So that
24 decision was made when I got there.

25 MS. SIMMS: Later?

1 MR. McCONNERY: Yeah.

2 MS. SIMMS: Yeah, okay.

3 THE COMMISSIONER: And just to help me out -
4 - I'm sorry if I'm interrupting -- this is after, of
5 course, the initial decision in the Leduc matter ---

6 MS. SIMMS: That's correct.

7 THE COMMISSIONER: --- to stay the
8 proceedings? So this was in reaction to that, I suppose?

9 MR. McCONNERY: Oh, I think very much ---

10 THE COMMISSIONER: Okay, fair enough.

11 MR. McCONNERY: --- very much so.

12 THE COMMISSIONER: Thank you.

13 MS. SIMMS: Well, I think what -- so we're
14 referencing the concern being that the finding in Leduc was
15 a finding of wilful nondisclosure ---

16 MR. McCONNERY: Yes.

17 MS. SIMMS: --- at that time?

18 It's later overturned on appeal, but that is
19 what you're faced with at the time, that there is the
20 decision by the court that there was wilful nondisclosure
21 by the Crown?

22 MR. McCONNERY: Yes.

23 MS. SIMMS: Okay. And that was influencing
24 your approach to how to deal with these materials?

25 MR. McCONNERY: Yes.

1 **MS. SIMMS:** And now at the time of this
2 letter, which is April 20th, the letter describes the
3 process and in the first paragraph towards the end, it
4 says:

5 "The Crowns assigned each case will
6 determine what, if anything, is
7 required to be disclosed in their
8 specific cases, but Kevin [that would
9 be Mr. Phillips} will end up in
10 possession of the Crown's copy of the
11 entire nine boxes."

12 So this letter's not referencing providing
13 the full nine boxes to any of the defence counsel?

14 **MR. McCONNERY:** At that point, no. See, I
15 don't think Mr. Cooper was really making any decisions
16 about disclosure. Mr. Cooper was making a suggestion about
17 tracking disclosure and here's -- this is what he
18 suggested. When I got there and became up to speed, if you
19 will, on the Dunlop boxes, the disclosure issue was going
20 to be mine to deal with ---

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

22 **MR. McCONNERY:** --- not Mr. Cooper's and my
23 decision was, I think, clearly obvious. Mine was give Mr.
24 Neville everything that's in those nine boxes.

25 **MS. SIMMS:** Well, and he does say it would

1 be the Crowns assigned to each case would make the decision
2 ---

3 **MR. McCONNERY:** M'hm.

4 **MS. SIMMS:** --- so in your decision with
5 respect of Father Charles' prosecution ---

6 **MR. McCONNERY:** Yeah, and actually you're
7 right. What I'm forgetting is the word "other prosecutions
8 still ongoing". Yes, that's correct, sorry.

9 **MS. SIMMS:** So you recall having discussions
10 and were they discussions with Mr. Stewart about what you
11 thought the best approach would be with respect to the
12 Charles MacDonald prosecution?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** And you determined that you
15 thought the entire -- the entirety of the materials should
16 be disclosed to defence counsel?

17 **MR. McCONNERY:** Yes.

18 **MS. SIMMS:** Okay.

19 **MR. McCONNERY:** I believe in that
20 discussion, we probably had input from the officers. I
21 don't think I ever intentionally excluded Mr. Phillips from
22 any of the discussions and I would say Terrance Cooper
23 probably had some play in it as well.

24 But the bottom line is, I was the prosecutor
25 and I was -- I would make the call on any disclosure issue

1 and my approach was, give them everything. I don't want to
2 be in the position that the previous Crown had been in.

3 **MS. SIMMS:** So can you just expand on that?
4 What was your concern?

5 **MR. McCONNERY:** We're missing something.

6 **MS. SIMMS:** Okay.

7 **MR. McCONNERY:** Well, no, bottom line,
8 missing something. I mean, I was going to be asked to
9 review material when I really didn't know what the whole
10 MacDonald brief was about. And so I think I erred on the
11 side of caution and give it all to counsel.

12 **MS. SIMMS:** Were you aware that these boxes
13 had been in possession of the police and the Crown for some
14 time? Ms. Hallett, as the Crown who previously had
15 carriage of the file, had provided some disclosure to
16 defence counsel from the materials.

17 **MR. McCONNERY:** So the defence counsel for
18 Father MacDonald?

19 **MS. SIMMS:** Well, was that your
20 understanding, that any disclosure had been provided from
21 those boxes?

22 **MR. McCONNERY:** I don't recall now that I
23 had any understanding of any disclosure having been made
24 from the boxes.

25 **THE COMMISSIONER:** Oh, from those boxes, but

1 you understand that Ms. Hallett had had carriage of the
2 file ---

3 **MR. McCONNERY:** Yes.

4 **THE COMMISSIONER:** --- for a time. That,
5 obviously, there had to have been some initial requests for
6 disclosure and that had been given. Were you aware of
7 that?

8 **MR. McCONNERY:** From the contents of the
9 boxes?

10 **THE COMMISSIONER:** No, I'm not talking from
11 the ---

12 **MR. McCONNERY:** Oh, everything else.

13 **THE COMMISSIONER:** Yes.

14 **MR. McCONNERY:** Yes. My understanding was
15 when I came in was, here's the Dunlop boxes, that's an
16 issue for you. Disclosure otherwise has been made and is
17 complete.

18 **THE COMMISSIONER:** Okay.

19 **MR. McCONNERY:** But I didn't at any time
20 ever see a concise history or a log of what had been
21 disclosed. But I have no appreciation of anything being
22 taken out of those boxes, photocopied and provided to the
23 defence that I can recall now.

24 **MS. SIMMS:** Okay. So there wasn't any
25 document that tracked for you clearly what disclosure had

1 taken place over the six years or five years that the
2 charges had been outstanding?

3 **MR. McCONNERY:** That's right. That's
4 correct.

5 **MS. SIMMS:** And when you decided to disclose
6 the entirety of the boxes, there was an issue and I'll
7 refer you to a document. There was still an outstanding
8 issue over whether there was any privilege claim or privacy
9 interest that may be advanced by Perry Dunlop about the
10 content of the boxes?

11 **MR. McCONNERY:** Yes.

12 **MS. SIMMS:** I'll just refer you to a
13 document.

14 It's Document Number 130348 and this is an
15 email from Inspector Hall to Kevin Phillips and Terry
16 Cooper dated April 25th, 2001.

17 **THE COMMISSIONER:** Thank you.
18 Exhibit 3039.

19 **--- EXHIBIT NO./PIÈCE NO. P-3039:**

20 (130348) - E-mail from Pat Hall to Kevin
21 Phillips and Terrance Cooper dated April 25,
22 2001

23 **MS. SIMMS:** So you're not actually copied on
24 this document, Mr. McConnery, but it references
25 communications with Mr. Dunlop regarding his position on

1 the disclosure of the materials in the boxes he provided,
2 and you'll see the first email is the last email on the
3 page. It's an email from Mr. Phillips to Inspector Hall?

4 **MR. McCONNERY:** Yes.

5 **MS. SIMMS:** And he is asking that Inspector
6 Hall get in touch with Perry Dunlop to ascertain his
7 position with respect to the disclosure?

8 **MR. McCONNERY:** Correct. I remember the
9 issue now that I see the reference to Perry Dunlop's
10 disciplinary matters and we were concerned about that. I
11 guess, yes, okay I recall that and Mr. -- Officer Hall's
12 response didn't come to me and neither did the previous,
13 but I think I was generally aware of the issue.

14 **MS. SIMMS:** Okay. Well, Hall's response is
15 above it.

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** So were you generally aware that
18 he had intended to contact Perry Dunlop?

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** And according to his email here,
21 that Perry Dunlop initially replied that he could put it
22 all in and then advised that Helen Dunlop, his wife, says,
23 "We should run it by our lawyer first".

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** Do you see that?

1 **MR. McCONNERY:** Yes.

2 **MS. SIMMS:** So there's nothing to indicate
3 from here that Mr. Hall had received an assurance from
4 Perry Dunlop that there was no claim and he was not going
5 to assert any claim of privilege over the documents?

6 **MR. McCONNERY:** Okay.

7 **MS. SIMMS:** Do you recall -- you recall
8 specifically a concern about disciplinary matters?

9 **MR. McCONNERY:** Well, I recall the concern
10 being the fact that there may have been privileged matters
11 in the boxes over which Perry could -- Perry Dunlop could
12 claim privilege.

13 **MS. SIMMS:** Right.

14 **MR. McCONNERY:** And in particular ---

15 **MS. SIMMS:** And one that comes to mind is
16 disciplinary records?

17 **MR. McCONNERY:** Disciplinary and I, of
18 course, was also aware that Perry Dunlop had commenced a
19 very significant civil law suit. So there were two areas
20 where ---

21 **MS. SIMMS:** Okay.

22 **MR. McCONNERY:** --- there was the prospect
23 of ---

24 **MS. SIMMS:** I'm going to ask you to refer to
25 another document. Again, I'm not -- it's between Inspector

1 Hall and Mr. Cooper, but it's Document Number 130347. And
2 this is a letter from Mr. Cooper to Inspector Hall dated
3 April 26th, 2001.

4 **THE COMMISSIONER:** Thank you.
5 Exhibit number 3040.

6 **--- EXHIBIT NO./PIÈCE NO. P-3040:**

7 (130347) - Letter from Terry Cooper to Pat
8 Hall re: Perry Dunlop: Issue of Privilege,
9 Nine Boxes, dated April 26, 2001

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **MS. SIMMS:** Mr. McConnery, this letter is
12 not copied to you?

13 **MR. McCONNERY:** No.

14 **MS. SIMMS:** Do you recall seeing it prior to
15 your preparation for the Inquiry?

16 **MR. McCONNERY:** No, I don't.

17 **MS. SIMMS:** In essence, the contact is
18 referring to following up with Mr. Dunlop, and Mr. Cooper
19 is asking that Inspector Hall do that himself?

20 **MR. McCONNERY:** Yes.

21 **MS. SIMMS:** Is that correct?

22 **MR. McCONNERY:** Yes.

23 **MS. SIMMS:** Rather than involve the Crown?

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** Okay.

1 **MR. McCONNERY:** I think it generally
2 reflects a practice that when you're dealing with a witness
3 other than a typically police witness, the Crown won't talk
4 to witnesses alone without a police presence, somebody to
5 makes notes, and that seems to be what the main thrust of
6 the letter is, although I think it goes further than that.

7 **MS. SIMMS:** It also -- so it continues to
8 discuss this issue of we need to ascertain Dunlop's
9 position with respect to ---

10 **MR. McCONNERY:** Yes.

11 **MS. SIMMS:** --- privilege?

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** And suggests that maybe you
14 could get contact information from counsel and discuss the
15 matter with them?

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** Do you recall if you received
18 any confirmation from Perry Dunlop, one way or the other,
19 whether he was waiving privilege or if there was a
20 privilege claim being asserted?

21 **MR. McCONNERY:** I don't have any
22 recollection of that matter.

23 **MS. SIMMS:** Were you aware that this was a
24 concern that Ms. Hallett had when she initially received
25 the Dunlop boxes, this issue of privileged documents or

1 privacy interests?

2 MR. McCONNERY: Ms. Hallett and I never
3 discussed the Dunlop boxes at all.

4 MS. SIMMS: So you ---

5 MR. McCONNERY: And I don't think it was
6 conveyed -- that was conveyed to me by others.

7 MS. SIMMS: Okay.

8 MR. McCONNERY: Not that I can recall now.

9 MS. SIMMS: All right. So am I right then
10 that your decision, notwithstanding initial concerns about
11 privacy interests, was to release the entire materials to
12 defence counsel?

13 MR. McCONNERY: Well, the original decision
14 was to photocopy them all.

15 MS. SIMMS: M'hm.

16 MR. McCONNERY: And then my belief is that
17 Kevin Phillips and I reviewed it before it went to Mr.
18 Neville. So copied it all, preserve it all, we would look
19 at it. If there were matters of privilege that we
20 shouldn't be looking at, we would know when we saw a
21 document, for instance a letter from a lawyer. So that's
22 the way I think it happened. It wasn't sent out bolus to
23 Mr. Neville without us having any review of it. I don't
24 believe ---

25 MS. SIMMS: Okay, well we have the dates

1 when it was sent out so we can review that history.

2 MR. McCONNERY: Okay.

3 THE COMMISSIONER: Sorry, will we get to --
4 in what conversation this gentleman had with Ms Hallett
5 with respect to the changeover. Is this in the cards?

6 MS. SIMMS: Yes.

7 THE COMMISSIONER: Okay, thank you.

8 MS. SIMMS: We will get there shortly.

9 THE COMMISSIONER: M'hm.

10 MS. SIMMS: So let's just complete the issue
11 of the boxes.

12 So you have now taken the position that
13 you're getting them all photocopied is what I'm hearing you
14 say?

15 You were reviewing the entirety of the
16 documents and then you were making a decision as to
17 disclosure. Is that your evidence?

18 MR. McCONNERY: Generally, that's the way it
19 was. I do recall -- because I've seen the letter -- I do
20 recall the day they were delivered to Mr. Neville's office.

21 MS. SIMMS: Which was August ---

22 MR. McCONNERY: August 15. Having said what
23 I just said, did I actually read every page? Because I did
24 read every page in those boxes. Did I actually do that
25 before they were given to Mr. Neville? You know, maybe you

1 could have something that can help me in that regard. I'm
2 not sure. I did read them all and I know that I gave them
3 all to Mr. Neville.

4 **MS. SIMMS:** Okay.

5 **MR. McCONNERY:** Delivered them personally.

6 **MS. SIMMS:** You just referenced the date, so
7 I'm just going to ask you to look at another document to
8 confirm that date that you provided the documentation, and
9 it's Document Number 109570.

10 And this document is a letter from Mr.
11 McConnery to Mr. Neville dated August 15th, 2001.

12 **THE COMMISSIONER:** Thank you.

13 Exhibit 3041.

14 **--- EXHIBIT NO./PIÈCE NO. P-3041:**

15 (109570) - Letter from Lorne McConnery to
16 Mike Neville re: *R. v. Charles MacDonald*
17 dated August 15, 2001

18 **MR. McCONNERY:** Yes.

19 **THE COMMISSIONER:** A publication stamp
20 should be put on this one and the factum as well, Exhibit
21 Number 3037.

22 **MS. SIMMS:** So, Mr. McConnery, this is the
23 date that you recalled handing over all of those materials?

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** And you'd been advised that

1 there were over 10,000 pages of documents in those
2 materials?

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** Okay.

5 And I understand your concern was about
6 missing some things and you wanted to make sure that all
7 your bases were covered in that regard and to feel
8 confident that full disclosure had been provided?

9 **MR. McCONNERY:** Yes.

10 **MS. SIMMS:** All right.

11 And you did review these materials at some
12 point?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** Was it your view that they were
15 subject to a disclosure requirement upon your review?

16 **MR. McCONNERY:** My review, I would say,
17 almost all of it was irrelevant, but in my view, they were
18 relevant to another aspect of things. They were relevant
19 to the 11(b).

20 **MS. SIMMS:** Okay.

21 **MR. McCONNERY:** And that's why personally I
22 took the view that I would read everything that was in
23 those boxes, you know, not just look at a document and say,
24 "Okay, well, I know what that is" and throw a 60-page
25 document aside.

1 There were articles about various topics,
2 theology articles. I read them, and I was -- I thought, in
3 any event, it reflected on the mindset of Officer Dunlop
4 and that might be very relevant to the 11(b) application.

5 **MS. SIMMS:** That being the case, Mr.
6 McConnery, can you just explain -- you took the position,
7 or the Crown took the position, in April that they were
8 prepared to proceed to trial in May and you've now, in
9 August, disclosed 10,000 pages of documents in light of --
10 -

11 **MR. McCONNERY:** In April, I had no idea
12 there were 10,000 pages of documents. When I got called in
13 April, there was a sexual assault trial set for the end of
14 May. Mr. Neville had an issue with respect to his trial
15 but otherwise apparently would have been prepared for
16 trial. Shelley Hallett, as lead counsel, would have been
17 prepared for the trial, although she had earlier been doing
18 Leduc. I have no idea when Leduc would naturally have
19 ended.

20 I think my position, originally in April,
21 was that we would do what we could to maintain that trial
22 date. Now, as I said, by the time I got to Ottawa and
23 began to get brought up-to-speed on what I was involved in,
24 it was much, much more convoluted and complex than maybe I
25 knew from day one. I had no idea that there were 10,000

1 pages in those boxes, for instance.

2 MS. SIMMS: And those 10,000 pages had been
3 in the possession of the Crown at that point for some time?

4 MR. McCONNERY: Okay.

5 MS. SIMMS: Well, not you in particular, but
6 they had been delivered by Mr. Dunlop in the spring of
7 2000. Isn't that right?

8 MR. McCONNERY: But I'm not sure I knew that
9 in April.

10 MS. SIMMS: Okay.

11 MR. McCONNERY: I may have known it in May.
12 I'm not sure I knew it in April.

13 MS. SIMMS: Mr. Commissioner just asked
14 about the discussions you had as you were taking over the
15 file, in particular with Shelley Hallett.

16 You did come to the region in May and you
17 did meet with at first -- or as I can tell from your notes,
18 your first meeting was with Inspector Hall and Constable
19 Dupuis to get a briefing from them on the matter?

20 MR. McCONNERY: Yes.

21 MS. SIMMS: So I'm going to ask you to refer
22 to your notes and they are Document Number 130299.

23 These are -- I'll wait until you see them.

24 (SHORT PAUSE/COURTE PAUSE)

25 THE COMMISSIONER: Thank you.

1 **MS. SIMMS:** These are the notes, I believe,
2 of Mr. McConnery starting on May 3rd, 2001 and they continue
3 to July 9th, 2001.

4 **THE COMMISSIONER:** Thank you.
5 Exhibit 3042.

6 **--- EXHIBIT NO./PIÈCE NO. P-3042:**
7 (130299) - Notes of Lorne McConnery dated
8 from May 3, 2001 to July 9, 2001

9 **MS. SIMMS:** And I expect, Commissioner, they
10 should be subject to a publication ban, yes.

11 **THE COMMISSIONER:** Thank you.

12 **MS. SIMMS:** Sorry, Mr. Commissioner, was
13 that 3043?

14 **THE COMMISSIONER:** Four-two (42).

15 **MS. SIMMS:** Thank you.

16 So are these your notes, Mr. McConnery?

17 **MR. McCONNERY:** Yes, this is my handwriting.

18 **MS. SIMMS:** Okay. And just before we
19 discuss your initial briefing by the OPP, I just wanted to
20 ask you a few questions about your note-taking practice.

21 **MR. McCONNERY:** Okay.

22 **MS. SIMMS:** Okay? So we have seen and we'll
23 refer to a number of notes that you've made through your
24 involvement.

25 **MR. McCONNERY:** Yes.

1 **MS. SIMMS:** Okay. Was this your normal
2 practice to make and retain these kinds of notes?

3 **MR. McCONNERY:** No.

4 **MS. SIMMS:** Okay. And for what -- so for
5 what reason were you keeping notes in this case?

6 **MR. McCONNERY:** Well, I think I came to
7 Ottawa and got involved in this and I was aware of MP
8 Guzzo's position. I was made aware of that as part of the
9 overall picture.

10 It seemed to me that what was coming down
11 the line here was a public inquiry. I mean, there was some
12 noise about that even way back then, and so I'm thrust into
13 this as the prosecutor of Father MacDonald who happened to
14 be the original target of the allegation of sexual assault,
15 and I just felt it was incumbent on me to try to track the
16 time I spent on what I was doing.

17 My note-taking, I will tell you that
18 generally speaking, as a trial counsel, I try to keep good
19 trial notes, but what I do on a day-to-day -- in the office
20 I don't make diarized notes like I did here. And so you'll
21 probably see the notes fall off sometimes rather
22 dramatically because it's rather tiresome, and other times
23 I was much more careful. I had a tendency to consider what
24 had happened that day and if there was something that I
25 felt was relevant, I would do a memo to myself and

1 sometimes they became the subject of disclosure.

2 But, no, I would say this -- for a case of
3 this nature, this was very unusual note-taking by me.

4 **THE COMMISSIONER:** Had you been made aware
5 of some interaction between Ms. Hallett and Detective
6 Inspector Hall on the Leduc trial?

7 **MR. McCONNERY:** Yes.

8 **THE COMMISSIONER:** So you knew all about
9 that before coming in?

10 **MR. McCONNERY:** I ---

11 **THE COMMISSIONER:** Or on your way in?

12 **MR. McCONNERY:** I would say I knew quite a
13 bit about that, not all of it, but certainly some of it. I
14 knew that there was a difficult relationship and what had
15 happened in the Leduc trial.

16 **THE COMMISSIONER:** So was your note-taking -
17 - was that another reason why you thought you might want to
18 take notes?

19 **MR. McCONNERY:** Yes.

20 **THE COMMISSIONER:** All right.

21 **MR. McCONNERY:** Absolutely.

22 **THE COMMISSIONER:** Go ahead.

23 **MS. SIMMS:** So as it happens, your first
24 note is a note of a meeting with Inspector Hall and
25 Detective Constable Dupuis.

1 So we're looking at the first page of your
2 notes here.

3 **MR. McCONNERY:** Yes. M'hm.

4 **MS. SIMMS:** And it was -- I take it this is
5 part of your process in assuming carriage of the file and
6 getting up to date on what is -- what you're dealing with?

7 **MR. McCONNERY:** Yes.

8 **MS. SIMMS:** Fair to say?

9 So the first couple pages refer to some
10 outline of background events, and these notes are --
11 reflect information that's being provided to you by the
12 officers. Is that correct?

13 **MR. McCONNERY:** Yes, it is.

14 **MS. SIMMS:** And then on Bates page 904,
15 which is your page number 4 ---

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** --- you have a list and it
18 appears to be a to-do list. Is that correct?

19 **MR. McCONNERY:** I would say that's accurate.

20 **MS. SIMMS:** All right.

21 So first on your to-do list is to meet with
22 Ms. Hallett.

23 **MR. McCONNERY:** Yes.

24 **MS. SIMMS:** Okay. And we'll come back to
25 that.

1 You also note meeting with now Justice
2 Pelletier -- Bob Pelletier?

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** Who was then or who had been a
5 Crown Attorney initially assigned to this matter?

6 **MR. McCONNERY:** Yes.

7 **MS. SIMMS:** Is that right?

8 **MR. McCONNERY:** M'hm.

9 **MS. SIMMS:** And do you recall anything in
10 particular about wanting to meet with Mr. Pelletier? Was
11 that to get his views as a Crown who had carriage of the
12 file initially?

13 **MR. McCONNERY:** Yes. I don't think it was
14 anything more specific than that.

15 **MS. SIMMS:** Okay. And then there's a number
16 of further points that are about getting office space,
17 getting materials, getting prepared.

18 **MR. McCONNERY:** Yes.

19 **MS. SIMMS:** Is that fair?

20 And there's a reference on number 3 to the
21 disclosure practice you spoke of and we spoke of about
22 dealing with the Dunlop boxes.

23 **MR. McCONNERY:** Yes.

24 **MS. SIMMS:** Right?

25 **MR. McCONNERY:** M'hm.

1 **MS. SIMMS:** And there's an issue there about
2 cost of reproducing. And you mentioned you were involved
3 in discussions on how to divvy up the work ---

4 **MR. McCONNERY:** Right.

5 **MS. SIMMS:** --- in reproducing all those
6 materials.

7 Do you recall that being a source of
8 contention between the Crown and the OPP?

9 **MR. McCONNERY:** I'm not sure. I'm not sure
10 that I saw it as a contentious point.

11 **MS. SIMMS:** So the first point that you have
12 to do is to -- listed is to meet with Shelley Hallett.

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** And your notes on the pages
15 following refer to telephone calls to Shelley Hallett.

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** Okay. So there's a message slip
18 on the next page. And then on Bates page 906 there's some
19 calls listed.

20 **MR. McCONNERY:** M'hm.

21 **MS. SIMMS:** Okay. So are these the first
22 communications you had with Ms. Hallett about the file?

23 **MR. McCONNERY:** Yes.

24 **MS. SIMMS:** Okay. And you first spoke to
25 her -- on page 5 of your notes -- on May 4th?

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

2 **MS. SIMMS:** And the substance of your
3 discussion appears to be about transferring the physical
4 file, which is still in her possession?

5 **MR. McCONNERY:** Yes.

6 **MS. SIMMS:** Okay. So at this time, on May
7 4th, you're still not in possession of the actual file?

8 **MR. McCONNERY:** Yeah, I don't know if I had
9 any of it at that point or not, but because as it turned
10 out there were many files, you know, I think I'm probably
11 thinking of one file and of course it turns out I end up
12 with several files to review. So I'm not sure if I had any
13 of Father MacDonald's.

14 **MS. SIMMS:** Okay.

15 **MR. McCONNERY:** I mean, I may have had a
16 copy of the brief but not all of her working stuff.

17 **MS. SIMMS:** So aside from the comments that
18 you've noted about file transfer basically ---

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** --- the only other substantive
21 comment you noted is towards the bottom of that note, and
22 it says:

23 "She expressed concerns about the March
24 2002 trial date, re: delay..."

25 Which was a concern of yours as well?

1 **MR. McCONNERY:** Yes, it was.

2 **MS. SIMMS:** "...and that an out-of-region
3 judge should be assigned."

4 **MR. McCONNERY:** Yes.

5 **MS. SIMMS:** So this was a comment made to
6 you by Ms. Hallett?

7 **MR. McCONNERY:** Apparently so, yeah.

8 **MS. SIMMS:** Do you recall having a
9 discussion on that issue?

10 **THE COMMISSIONER:** Did she give any reason
11 why or ---

12 **MR. McCONNERY:** Well, I think it was some of
13 the controversy that had taken place during Leduc ---

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

15 **MR. McCONNERY:** --- was what she was saying
16 and should we now be going out of the region.

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

18 **MR. McCONNERY:** I don't know if it was
19 anything more than that.

20 **MS. SIMMS:** Did you give that -- those
21 concerns some consideration?

22 **MR. McCONNERY:** Well, I don't think on May
23 4th that I was completely up to speed with all that had
24 happened in Leduc. You know, I'm getting takes on it from
25 different people, but I wouldn't say that I had a clear

1 picture of what had happened on Leduc. I knew that there
2 was a disclosure issue. There was a -- what I thought was
3 an application to adjourn the trial and then an application
4 for a stay or a mistrial, rather, and then an application
5 of a stay, and the grounds at first were directed at the
6 police, then they were directed at Shelley Hallett. But to
7 say that I really had a concise picture of all this and
8 jumped in and said "Oh, yes, we're going to get it out of
9 the east region" no, I don't think I was there at that
10 point.

11 **THE COMMISSIONER:** But did you ever -- so
12 did you consider it further down the line? Well, let's put
13 it this way; did you ever bring a motion ---

14 **MR. McCONNERY:** No, I didn't.

15 **THE COMMISSIONER:** --- to have an out-of-
16 town judge? Did you ever speak to an administrative judge
17 or to the defence about getting an out-of-region judge?

18 **MR. McCONNERY:** We did.

19 **THE COMMISSIONER:** You didn't?

20 **MR. McCONNERY:** The Crown did.

21 **THE COMMISSIONER:** Did not?

22 **MR. McCONNERY:** Did.

23 **THE COMMISSIONER:** Did. Okay.

24 **MR. McCONNERY:** Mr. Stewart did.

25 **THE COMMISSIONER:** Okay.

1 **MS. SIMMS:** And I think that's a -- not a
2 response to -- well, response to some other matters in
3 addition to what ---

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

5 **MS. SIMMS:** --- Shelley Hallett's concerns
6 were.

7 **MR. McCONNERY:** Yes.

8 **MS. SIMMS:** And we will get to that.

9 But before that occurred there is another
10 document referencing your consideration of this issue and
11 it's Document Number 130375. And this is an email from Mr.
12 Phillips to Mr. Pearson, undated.

13 **THE COMMISSIONER:** Thank you.

14 Exhibit 3043.

15 --- **EXHIBIT NO./PIÈCE NO. P-3043:**

16 (130375) - E-mail from Kevin Phillips to
17 John Pearson, undated

18 **MS. SIMMS:** So again, Mr. McConnery, this
19 isn't copied to you but it does reference you, and it's Mr.
20 Phillips noting that he's been assigned to assist you in
21 the prosecution of Charles MacDonald. And he notes:

22 "We are considering bringing a motion
23 to have an out-of-jurisdiction judge
24 hear the case. Our view is that in
25 light of the circumstances giving rise

1 to the Crown appeal in *R. v. Leduc*, it
2 would be in the best interests of the
3 appearance of justice that an out-of-
4 jurisdiction judge be brought in."

5 **MR. McCONNERY:** Okay.

6 **MS. SIMMS:** So it appears that it was under
7 consideration by you and Mr. Phillips at some point?

8 **MR. McCONNERY:** Well, it appears so. I must
9 say that I didn't recall this.

10 **MS. SIMMS:** You don't have any recollection
11 of that?

12 **THE COMMISSIONER:** Of this note, you mean?

13 **MR. McCONNERY:** This note refreshes my
14 memory somewhat, but before you produced this to me I
15 didn't recall this, but certainly it appears that it was
16 maybe more topical than I'm remembering.

17 **MS. SIMMS:** Okay.

18 **MR. McCONNERY:** I don't remember where that
19 went though. I don't know if Mr. Pearson gave us material
20 or gave us a view. I believe Mr. Pearson was then the
21 Acting Assistant Deputy Minister, ordinarily a regional
22 Crown, and I don't know if he gave us any guidance or any
23 thoughts on it.

24 **MS. SIMMS:** Okay. Well, in any case, you
25 did not, in the end, bring any application?

1 **MR. McCONNERY:** No.

2 **MS. SIMMS:** Okay.

3 **MR. McCONNERY:** No.

4 **MS. SIMMS:** And you don't recall a
5 discussion or consideration about concerns about the
6 appearance of justice that seemed to be expressed here?

7 **MR. McCONNERY:** Well, I mean, the email
8 makes it clear that we were. Do I have a recollection now?
9 I can't help you on that. I don't know.

10 **MS. SIMMS:** Okay.

11 **MR. McCONNERY:** It would be helpful if we
12 had a date on this because later, of course, there was
13 something and Mr. Stewart did take steps, rightly or
14 wrongly. It was a concern that we had, so I don't think --
15 whether or not they were tied -- it doesn't appear they
16 were tied, so it would have been helpful to have a date on
17 that document. So I ---

18 **MS. SIMMS:** It would have been.

19 **MR. McCONNERY:** Yeah. I'm sorry.

20 **MS. SIMMS:** We don't have a date on that
21 document.

22 So getting back to your discussions with
23 Shelley Hallett, there was two substantive issues that she
24 raised, concern about the delay -- sorry, and you can refer
25 back to your notes, they were Exhibit 3042.

1 **MR. McCONNERY:** Okay.

2 **THE COMMISSIONER:** Did you meet her in
3 person?

4 **MR. McCONNERY:** I knew Ms. Hallett ---

5 **THE COMMISSIONER:** Yes.

6 **MR. McCONNERY:** --- previously. You know, I
7 don't believe, Mr. Commissioner, that we ever had a face-
8 to-face meeting.

9 **THE COMMISSIONER:** On these matters?

10 **MR. McCONNERY:** That's right.

11 She expressed to me at some point that
12 because of various things that were happening that she did
13 not want to speak about them with me.

14 **THE COMMISSIONER:** I'm sorry; she didn't
15 want to ---

16 **MR. McCONNERY:** She did not want to speak to
17 me about them.

18 **THE COMMISSIONER:** About?

19 **MR. McCONNERY:** Well, about Leduc and the
20 whole -- I mean, there was a criminal investigation of
21 that ---

22 **THE COMMISSIONER:** Right.

23 **MR. McCONNERY:** --- and she had retained
24 counsel, and she said to me, "Lorne, I'm not being
25 difficult, but I've been advised not to say things."

1 **THE COMMISSIONER:** Okay. Well, that's what
2 I want to know.

3 **MR. McCONNERY:** Yes.

4 **THE COMMISSIONER:** So did she have any
5 comments about the way the police had investigated this, or
6 had dealt with her, or anything like that?

7 **MR. McCONNERY:** Well, I certainly
8 recall -- I don't think I would have written them down, but
9 I certainly recall when she expressed some -- maybe "anger"
10 is not the right word, but disappointment in Officer Hall.

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

12 **MR. McCONNERY:** It was quite clear that he
13 didn't -- they weren't -- well, they didn't appreciate each
14 other, I guess, is one way I can put it.

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

16 **MR. McCONNERY:** They had their conflicts and
17 she let me know that, and she was ---

18 **THE COMMISSIONER:** What did she -- did she
19 tell you, "Watch your back," and did she say things like
20 that, or ---

21 **MR. McCONNERY:** You know, Mr. Commissioner,
22 somewhere out of all that early time, I was -- the
23 impression I was left with was, with respect to Officer
24 Hall ---

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

1 **MR. McCONNERY:** --- things are on the
2 record. You know, you don't have these little joking by-
3 play. If it's during working hours and you're talking to
4 Pat Hall, he may sit down and make a note of it. So, you
5 know, be careful what you say to him. And maybe that
6 informed my decision to also keep as many notes as I did,
7 as well.

8 I worked with him for a quite a while, and I
9 saw him a little bit after work as well, because we were
10 both located in Cornwall, and I realized that if you had
11 dinner with him he wasn't making notes of what you said at
12 dinner, but I took the position that what I said during
13 working hours Pat Hall may well make a note of it and he
14 may -- it may reflect his view of what I said, and I may
15 not agree, so I tried to be -- to bear that in mind.

16 **MS. SIMMS:** Had you worked with Inspector
17 Hall prior to this at all?

18 **MR. McCONNERY:** No, I met him on May 4th of
19 2000 -- May 3rd of 2001.

20 **THE COMMISSIONER:** So did Mr. Hall have any
21 opinion or voice, any thoughts about Ms. Hallett when you
22 first met or during ---

23 **MR. McCONNERY:** At some point.

24 **THE COMMISSIONER:** --- the course of ---

25 **MR. McCONNERY:** Yes.

1 **THE COMMISSIONER:** Give me a flavour.

2 **MR. McCONNERY:** Really?

3 **THE COMMISSIONER:** Really.

4 **MR. McCONNERY:** Well, okay. He would...

5 **THE COMMISSIONER:** Where are my glasses?

6 Hold on. Yes, Mr. ---

7 **MR. KLOEZE:** Mr. Commissioner, we've had the
8 testimony of Mr. Hall on these events.

9 **THE COMMISSIONER:** Right.

10 **MR. KLOEZE:** We will have the testimony of
11 Ms. Hallett. Those are the direct participants to the
12 incidents that you're speaking about. I'm not sure it's
13 helpful to have, I guess, hearsay evidence of those same
14 events from this witness.

15 **THE COMMISSIONER:** It has nothing to do with
16 hearsay; it has to do with institutional response.

17 This gentleman is coming in, into a
18 situation. I want to know how Officer Hall institutionally
19 responded to that incident, and I want to know how this
20 gentleman responded.

21 It has everything to do with institutional
22 response; nothing to do with sensationalism, but
23 professionalism. That's what I'm looking at.

24 **MR. KLOEZE:** And this witness has said how
25 he's responded to discussions he had with Ms. Hallett and

1 Mr. Hall.

2 **THE COMMISSIONER:** Right. But now I want to
3 know -- yes?

4 **MR. KLOEZE:** And I think that clearly is the
5 relevant part of it. He's responded how -- what his
6 reaction to that was. I'm not sure we need to know the
7 details of the conversations he had that led to that
8 response.

9 **THE COMMISSIONER:** Oh, I want to know what
10 Officer Hall is doing with the Crown that's been assigned
11 to this thing.

12 And so you're absolutely -- I don't want to
13 get into sensationalism or anything like that, but I want
14 an honest account of this man's impression of how Mr. Hall
15 interacted with him, vis-à-vis the Hallett issue.

16 So help me out if -- do you not think that
17 if, depending on what Mr. Hall said to this man, that it
18 might affect the investigation, how people relate to each
19 other? Isn't that institutional response?

20 **MR. KLOEZE:** Well, I think -- as I say, I
21 think those are relevant questions, to see how Mr.
22 McConnery conducted his carriage of this prosecution, but
23 I -- as I said, I still don't think it's relevant to know
24 what the details of the conversations are between ---

25 **THE COMMISSIONER:** Well ---

1 **MR. KLOEZE:** Because all of that is hearsay,
2 and we've had Mr. Hall's evidence on ---

3 **THE COMMISSIONER:** No, no. No, it's not
4 hearsay if we're asking him, "What did Mr. Hall tell you?"
5 That's not hearsay.

6 **MR. KLOEZE:** But that's all sort of after
7 the fact. We've had Mr. Hall's evidence, and we will have
8 Ms. Hallett's evidence, on the incidents in question.

9 **THE COMMISSIONER:** Yes, but it's not over.
10 We have a MacDonald case that's going ahead here. We have
11 an investigating officer and we have a new Crown. And so,
12 yeah, I think it would be very relevant, maybe not to get
13 in all of the details, but to get a good grasp about what
14 Mr. Hall is feeling and thinking as he tells this man. I
15 think that's quite relevant.

16 Is there anybody that wants to wander in
17 here and help me out?

18 **MS. DALEY:** Not because you need it, but
19 you're absolutely right; this doesn't go to the truth of
20 any contents of any statement made by Mr. Hall.

21 And I would just remind us all that, as my
22 friend Mr. Kloeze pointed out, Mr. Hall gave us his
23 version ---

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

25 **MS. DALEY:** --- of his relationship with Ms.

1 Hallett. It may well be that a different version emerges
2 if this witness is allowed to tell us what Hall said to him
3 in the moment.

4 So for all those reasons I think it's
5 admissible and it's quite relevant.

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

7 **MR. WALLACE:** Good morning, Mr.
8 Commissioner.

9 **THE COMMISSIONER:** Yes, sir.

10 **MR. WALLACE:** As far as the interaction
11 between Mr. McConnery and Mr. Hall are concerned, obviously
12 it's a relevant issue, as far as how did they get along in
13 this particular prosecution. But we can't lose sight of
14 the fact that the matter between Mr. Hall and Ms. Hallett
15 were in relation to the Leduc case of which Mr. McConnery
16 is not involved, at that time or in the future.

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

18 **MR. WALLACE:** So the interaction there --
19 you've heard Mr. Hall's side of it, you will, undoubtedly,
20 hear Ms. Hallett's side of the interaction, vis-à-vis Mr.
21 Leduc's case, is one thing.

22 I think it's probably a fair question to ask
23 Mr. McConnery, in terms of Mr. Hall, how he found him
24 executing his duties as far as his interaction with him on
25 MacDonald, but as far as the past history, I don't see that

1 as being relevant.

2 **THE COMMISSIONER:** Thank you. I disagree.

3 I think that as part of the institutional
4 response I'm interested in finding out what transpired and
5 how, if anything, Mr. McConnery was -- reacted or
6 influenced by what Mr. Hall had to say. I think it has
7 everything to do with professionalism and the OPP
8 institutional response, and I think we'll let the cards
9 fall where they might.

10 Sir, I'm going to ask you again -- and
11 without getting into raw details -- but I might force you,
12 if you don't get to the point -- what, generally, did
13 Mr. Hall have to say with respect to the Hallett matter?

14 **MR. McCONNERY:** I think, in my original
15 involvement with both Ms. Hallett and Officer Hall, they
16 both expressed anger at each other.

17 **THE COMMISSIONER:** Right.

18 **MR. McCONNERY:** Mr. Hall, on a number of
19 occasions, took the opportunity to tell me that he thought
20 she was a "princess."

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

22 **MR. McCONNERY:** That she treated the
23 officers in a way that the officers didn't like ---

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

25 **MR. McCONNERY:** --- in a sense of, "Get my

1 briefcases; take them to the car, please."

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

3 **MR. McCONNERY:** He didn't like that. Some
4 of the officers were much more willing to go along with
5 that, but ---

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

7 **MR. McCONNERY:** --- that was something that
8 seemed to aggravate him.

9 It was quite clear there was a personality
10 clash between the two of them.

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

12 **MR. McCONNERY:** He would tell me things like
13 he thought she worked very hard, but that she was very slow
14 to respond to things. He was very critical of her about
15 that.

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

17 **MR. McCONNERY:** But I think that a major
18 thrust of what I took from Pat Hall was that it was clear
19 that he didn't personally like Shelley a lot.

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

21 **MR. McCONNERY:** And that may -- I'm not
22 saying it influenced anything, but he seemed to want to
23 make a point of letting me know that.

24 **THE COMMISSIONER:** And how often would --
25 you say "several times". Did it drag on or did -- at some

1 point, did you ever put an end to it and say, "Stop, I
2 don't need to hear this"?

3 **MR. McCONNERY:** I don't think it was so
4 constant that I had to do that, but ---

5 **THE COMMISSIONER:** Right.

6 **MR. McCONNERY:** --- you know, over the
7 course of the time I worked with him, it probably was an
8 issue; not an issue, but a subject of conversation five or
9 six times.

10 In fact, other officers might comment too
11 and say, "Well, we weren't as offended by this or that,"
12 but ---

13 **THE COMMISSIONER:** Okay.

14 **MR. McCONNERY:** --- you know, he had
15 concerns about her -- occasionally her punctuality ---

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

17 **MR. McCONNERY:** --- things of that nature.
18 And of course, they both talked about the Leduc issue a
19 little bit with me and their different versions of that and
20 ---

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

22 **MR. McCONNERY:** --- it almost seemed to me
23 that they had determined that one of them had to be either
24 untruthful or lying about it. So there was that flavour.

25 **THE COMMISSIONER:** Okay.

1 **MR. McCONNERY:** So it informed my decision,
2 Mr. Commissioner, that I would try to make notes because
3 there you had a position of a very senior counsel from our
4 Ministry who ended up in a situation and the officers were
5 saying it didn't happen that way, and I thought, well,
6 then, I should take some care here.

7 **THE COMMISSIONER:** Okay. Thank you.
8 We'll take the morning break.

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

11 This hearing will resume at 11:15 a.m.

12 --- Upon recessing at 10:57 a.m./

13 L'audience est suspendue à 10h57

14 --- Upon resuming at 11:17 a.m. /

15 L'audience est reprise à 11h17

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

18 This hearing is now resumed. Please be
19 seated. Veuillez vous asseoir.

20 **THE COMMISSIONER:** Thank you.

21 Ms. Simms?

22 **LORNE McCONNERY, Resumed/Sous le même serment:**

23 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.**

24 **SIMMS (cont'd/suite):**

25 **MS. SIMMS:** So, Mr. McConnery, just before

1 the break we were discussing interchanges you've had with
2 Ms. Hallett and we were -- we started from referencing
3 Exhibit 3042, Bates page 906, which is your telephone call
4 with Shelley Hallett on May 4th.

5 Do you have that there? I think it's a
6 loose document.

7 **THE COMMISSIONER:** No, they're anymore.
8 They're probably in ---

9 **MS. SIMMS:** Oh, sorry.

10 **THE COMMISSIONER:** Madam Registrar is so
11 efficient.

12 **MS. SIMMS:** I apologize, Madam Registrar.

13 **MR. McCONNERY:** I have 3042 which were my
14 notes.

15 **MS. SIMMS:** Yes.

16 **THE COMMISSIONER:** Yes.

17 **MS. SIMMS:** We were looking at the page --
18 your handwritten pages, page 5.

19 **THE COMMISSIONER:** But I don't have it.

20 **MS. SIMMS:** Bates page 906.

21 **MR. McCONNERY:** Thank you.

22 **THE COMMISSIONER:** Sorry, what exhibit
23 number again?

24 **MS. SIMMS:** Exhibit 3042.

25 **THE COMMISSIONER:** Thank you.

1 **MS. SIMMS:** So, Mr. McConnery, you're
2 speaking to Ms. Hallett about the transfer of the file to
3 you.

4 **MR. McCONNERY:** Yes.

5 **MS. SIMMS:** And she's indicating she will
6 make an inventory about what has to be turned over.

7 Was that something you were familiar with or
8 standard practice in terms of turning the file from one
9 Crown attorney to another, that it be inventoried?

10 **MR. McCONNERY:** No, I wouldn't say that was
11 standard practice.

12 **MS. SIMMS:** Okay. And at the time she said
13 she hoped to turn over her inventoried list possibly by the
14 week of the conference, May 14th to the 18th, and that's at
15 the bottom of the note of your call?

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** Okay. And in fact it took a lot
18 longer than that for you to receive the full file from Ms.
19 Hallett? I understand you received it in portions?

20 **MR. McCONNERY:** Yes, I think that's
21 accurate, yes.

22 **MS. SIMMS:** So I'm going to take you through
23 that, Mr. McConnery.

24 And I understand we're going to go through a
25 period of time that she's handing over materials. I

1 understand for a portion of that time you were working on
2 reviewing briefs and not on the Father Charles prosecution,
3 but in any case, the first delivery of materials to you
4 from Ms. Hallett occurred in June of 2001 and you have a
5 reference in your notes. It's Bates page 909, your
6 handwritten note at page 8.

7 **MR. McCONNERY:** Sorry, can you give me the
8 note page again?

9 **MS. SIMMS:** The note page is 8.

10 **MR. McCONNERY:** Okay. Yes.

11 **MS. SIMMS:** Well, there's a reference also
12 on page 7 to receiving a call from Shelley Hallett. It's
13 Bates page 908.

14 **MR. McCONNERY:** Yes.

15 **MS. SIMMS:** Regarding the pick-up of the
16 boxes?

17 **MR. McCONNERY:** Yes.

18 **MS. SIMMS:** And that's -- the note is dated
19 May 28th. You had hoped to pick up the boxes from SH.
20 That's Shelley Hallett?

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** But they are not yet ready?

23 **MR. McCONNERY:** M'hm.

24 **MS. SIMMS:** And you note that you told her
25 not to be concerned about expediting the MacDonald material

1 as you were reviewing several other briefs at the time?

2 MR. McCONNERY: Yes.

3 MS. SIMMS: And on the following page,
4 which, is at 8 of your notes ---

5 MR. McCONNERY: Yes.

6 MS. SIMMS: --- at the very bottom you note:
7 "Travelling to Toronto to pick up eight
8 boxes plus an envelope."

9 And were those boxes that Ms. Hallett had
10 prepared for you?

11 MR. McCONNERY: Yes.

12 MS. SIMMS: Okay. So you received the first
13 large delivery of materials from her on June 4th; is that
14 right?

15 MR. McCONNERY: I believe so. That's the
16 Monday I was coming to Ottawa. I drove to Toronto and I
17 was told the boxes would be outside her office.

18 MS. SIMMS: So you didn't meet with her on
19 that day?

20 MR. McCONNERY: No. No.

21 MS. SIMMS: The boxes were waiting outside
22 of her office for you to pick up?

23 MR. McCONNERY: Yes. So I went to the lobby
24 and then the boxes -- I was either brought to the boxes or
25 they were brought out, but I didn't see her and they were

1 supposed to be outside her office.

2 **MS. SIMMS:** Were you expecting to meet with
3 her that day?

4 **MR. McCONNERY:** Well, no. In fact, I would
5 say when she tells me she'll put the boxes outside for me,
6 I shouldn't be expecting to meet with her. I don't know if
7 she was elsewhere. She could have been ---

8 **MS. SIMMS:** All right.
9 There's actually a document I'd like to
10 refer you to ---

11 **MR. McCONNERY:** Yes.

12 **MS. SIMMS:** --- that just references this
13 transfer.

14 So it's Document Number 103014. And this is
15 a memo from Ms. Hallett to Lorne McConnery dated June 2nd,
16 2001.

17 **MR. McCONNERY:** Okay.

18 **MS. SIMMS:** And it should be marked subject
19 to a publication ban.

20 **MR. McCONNERY:** Okay.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MS. SIMMS:** If this could be made an
23 exhibit, Mr. Commissioner.

24 **THE COMMISSIONER:** Yes. I'm sorry. I was
25 wondering why there was a lull. I was reading it.

1 Exhibit 3044 is a memorandum to Lorne
2 McConnery from Shelley Hallett dated June 2nd, 2001, re:
3 *Regina v. MacDonald*.

4 **--- EXHIBIT NO./PIÈCE NO. P-3044:**

5 (103014) - Memorandum from Shelley Hallett
6 to Lorne McConnery re: *R. v. Charles*
7 *MacDonald* dated June 2, 2001

8 **MS. SIMMS:** So she references there that
9 she's leaving eight boxes of materials for you to pick up?

10 **MR. McCONNERY:** Yes.

11 **MS. SIMMS:** And she also notes at the end of
12 that first paragraph:

13 "There will be some remaining boxes for
14 pick-up on a later date containing
15 preliminary inquiry transcripts,
16 videotapes, correspondence, final case
17 books. I need more time to itemize
18 these."

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** So you were aware at that time
21 that you had not received the full materials that were in
22 Ms. Hallett's possession?

23 **MR. McCONNERY:** Yes.

24 **MS. SIMMS:** Okay. And she has outlined some
25 of her itemization of the materials in the memo?

1 **MR. McCONNERY:** Yes.

2 **MS. SIMMS:** Right? Okay.

3 So if I can turn you back to your notes,
4 which were Exhibit 3042, and I understand at this time --
5 and we'll get back to this, Mr. McConnery -- you were
6 occupied with another task you had been assigned, so you
7 were not focussing on the MacDonald prosecution in the
8 summer of 2001?

9 **MR. McCONNERY:** That's correct.

10 **MS. SIMMS:** Okay.

11 **MR. McCONNERY:** Yeah.

12 **MS. SIMMS:** So you have a note on Bates page
13 914. This is a note regarding a telephone call you
14 received from Susan Kyle. And who is Susan Kyle?

15 **MR. McCONNERY:** Susan Kyle was counsel to
16 the Assistant Deputy Minister.

17 **MS. SIMMS:** So this note refers to a call
18 that she made to you, and one of the issues she raised was
19 that she had -- that you had apparently said to someone
20 that you hadn't received everything from Ms. Hallett?

21 **MR. McCONNERY:** Correct.

22 **MS. SIMMS:** And this is relating in
23 particular to the review of your briefs, a conspiracy brief
24 in particular, and also to the Father Charles MacDonald
25 prosecution?

1 **MR. McCONNERY:** Yes.

2 **MS. SIMMS:** Okay. And you note that she
3 doesn't tell you the source of her concern?

4 **MR. McCONNERY:** Yes.

5 **MS. SIMMS:** But was it your impression that
6 perhaps it was a -- a concern might have been raised to her
7 by Inspector Hall?

8 You can take the time to review the note if
9 you need to, Mr. McConnery.

10 **MR. McCONNERY:** There's something blacked
11 out here and I don't know if that -- what it says or not.

12 **MR. KLOEZE:** Perhaps I can assist. The
13 portion that's blacked out relates to a matter on which the
14 Ministry claims solicitor-client privilege. It's -- it
15 relates to seeking legal advice from -- not on this matter
16 but on another matter, on the matter of the conspiracy
17 brief.

18 **MR. McCONNERY:** Okay. I had better read
19 this note to ---

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

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MR. McCONNERY:** Okay. And certainly I go on
23 to say that I'm concerned about whether or not this was
24 being fashioned as a complaint. I didn't mean it as a
25 complaint. I meant it as a statement of fact, and that if

1 Pat Hall took it to Susan Kyle, he may have been doing it
2 as complaining.

3 MS. SIMMS: And you don't know who had
4 mentioned it to Susan Kyle, but you thought it might have
5 been Inspector Hall?

6 MR. McCONNERY: Yes.

7 MS. SIMMS: Okay.

8 THE COMMISSIONER: Did you ever take it up
9 with Officer Hall and say, "Did you do this?"

10 MR. McCONNERY: I don't think so.

11 THE COMMISSIONER: Okay.

12 MR. McCONNERY: I don't think so.

13 MS. SIMMS: In any case, you hadn't received
14 at that point the full materials from Ms. Hallett. We
15 looked at the memo where she indicates further materials
16 are coming; correct?

17 MR. McCONNERY: Yes.

18 MS. SIMMS: And she had advised you of that
19 and you were aware?

20 MR. McCONNERY: Right.

21 MS. SIMMS: Okay.

22 I'd like to take you to another letter.

23 It's Document Number 109243.

24 Mr. Commissioner, this is a letter from Mr.
25 McConnery to Ms. Hallett dated July 18th, 2001.

1 **THE COMMISSIONER:** Thank you.

2 Exhibit 3045.

3 **--- EXHIBIT NO./PIÈCE NO. P-3045:**

4 (109243) - Letter from Lorne McConnery to
5 Shelley Hallett re: Project Truth dated July
6 18, 2001

7 **MS. SIMMS:** So at this point, in July, Mr.
8 McConnery, you're writing Ms. Hallett and confirming what
9 briefing materials you have received from her and asking
10 whether there's still material forthcoming. Is that
11 correct?

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** Okay. And this is on July 18th,
14 2001. So it's now been some months since you were first
15 assigned. Is that correct?

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** And I understand you received a
18 response from Ms. Hallett to your letter. It's Document
19 Number 109244.

20 **THE COMMISSIONER:** Thank you.

21 Exhibit Number 3046 is the letter dated July
22 27th, 2001 to Mr. McConnery from Shelley Hallett.

23 **--- EXHIBIT NO./PIÈCE NO. P-3046:**

24 (109244) - Letter from Shelley Hallett to
25 Lorne McConnery re: Project Truth

1 Investigations dated July 27, 2001

2 (SHORT PAUSE/COURTE PAUSE)

3 MS. SIMMS: So have you reviewed the letter,
4 Mr. McConnery?

5 MR. McCONNERY: Not the whole letter, not
6 yet. I'm not going to read the last part which has to do
7 with some ---

8 MS. SIMMS: You can read all of it.

9 MR. McCONNERY: Well, the legal issues about
10 gross indecency, et cetera, I won't read. Okay?

11 MS. SIMMS: I think that section relates to
12 a review of the briefs and so maybe we'll come back to that
13 when we discuss your review of the briefs.

14 MR. McCONNERY: Yeah.

15 MS. SIMMS: But in this letter she's
16 responding to your letter of July 18th, right?

17 MR. McCONNERY: Yes.

18 MS. SIMMS: And she's indicating to you that
19 there's approximately four to five boxes of materials still
20 to be sent to you in relation to the prosecution, right?

21 MR. McCONNERY: Yes.

22 MS. SIMMS: And we were discussing some of
23 the impacts of the events in the Leduc trial from your
24 point-of-view. And Ms. Hallett says in the second
25 paragraph, she refers to the investigation against her with

1 respect to charges ---

2 **MR. McCONNERY:** Correct.

3 **MS. SIMMS:** --- and that it's been resolved
4 favourably to her.

5 **MR. McCONNERY:** Yes.

6 **MS. SIMMS:** And at the bottom of that
7 paragraph she says:

8 "Because I'm being kept in the dark
9 about the contents of the report and
10 what the police have further alleged
11 about me, I must be extremely cautious
12 about reviewing and copying material
13 which may allow me to rebut false
14 allegations against me, similar to
15 those that have already surfaced."

16 So rather than providing you everything she
17 has, just handing it over, it appears she's reviewing
18 everything, making copies where she thinks it's necessary,
19 inventorying everything.

20 **MR. McCONNERY:** Yes.

21 **MS. SIMMS:** And did you take it that that
22 was a cause of some delay in your obtaining the full Crown
23 file in this matter?

24 **MR. McCONNERY:** Well, I mean, I think the
25 letter speaks for itself. It was -- she was delayed in

1 turning it over. She had her own concerns that she was
2 trying to address and to protect her own interests, but she
3 was telling me that she was working on it and would get it
4 to me.

5 The trial -- you know, I'm not sure now
6 which of these impacted on which -- if they were just
7 MacDonald related matters. There wasn't the urgency. The
8 priority that I had subsequently been assigned to when I
9 got down there was the review of the other briefs, and I'm
10 not sure now if I felt I had everything on those matters or
11 not.

12 **MS. SIMMS:** Okay. Well, we'll come back to
13 that.

14 But at certainly some point of time you are
15 trying to seek and expedite the trial date, so at some
16 period of time there's a possibility that the trial will be
17 earlier than March of 2002, right?

18 **MR. McCONNERY:** Yes.

19 **MS. SIMMS:** So it would be helpful for you
20 to have all of the materials that were in the former
21 Crown's possession?

22 **MR. McCONNERY:** Absolutely.

23 **MS. SIMMS:** So one of the materials she
24 references in this letter we looked at -- it's not yet been
25 provided -- a preliminary inquiry transcript.

1 MR. McCONNERY: Yes.

2 MS. SIMMS: It's in the very first
3 paragraph.

4 MR. McCONNERY: Right. Okay.

5 MS. SIMMS: Okay?

6 MR. McCONNERY: Yeah.

7 MS. SIMMS: So I'm going to ask you to look
8 at another letter, and that is Document Number 109245.
9 This is a letter from Ms. Hallett to Mr. McConnery dated
10 November 16th, 2001, and it should be marked subject to
11 publication ban.

12 THE COMMISSIONER: Thank you.

13 Exhibit Number 3047.

14 --- EXHIBIT NO./PIÈCE NO. P-3047:

15 (109245) Letter from Shelley Hallett to
16 Lorne McConnery re: Preliminary Inquiry
17 Transcripts dated November 16, 2001

18 MR. McCONNERY: Okay.

19 MS. SIMMS: So this is a letter enclosing
20 the preliminary inquiry transcripts from the Charles
21 MacDonald prosecution?

22 MR. McCONNERY: Yes.

23 MS. SIMMS: And also contains a few other
24 materials as well?

25 MR. McCONNERY: Yes.

1 **MS. SIMMS:** Okay. So were you aware that --
2 was this something that you were requesting of Ms. Hallett
3 in the fall of 2001 that you obtained, in particular the
4 preliminary trial transcripts?

5 **MR. McCONNERY:** Well, I would think so. The
6 comment I make would be, was there available to me other
7 copies of those same transcripts?

8 **MS. SIMMS:** Okay.

9 **MR. McCONNERY:** I don't know. It's very
10 frequently that the Crown, in a significant case like this,
11 might order multiple copies of the transcripts. The police
12 might have a copy of the transcript.

13 Did I have those transcripts and was I
14 waiting for her transcripts because it may in and of itself
15 have notes and comments and -- she was very organized about
16 drawing discrepancies between transcript and statements and
17 that, so I don't know if it was more than just the
18 transcripts. I may have had transcripts.

19 **MS. SIMMS:** Well, maybe we can locate
20 something to help you out with that, but you don't recall
21 whether you did have other copies at this time?

22 **MR. McCONNERY:** No, I don't.

23 **MS. SIMMS:** And, presumably, in preparation
24 for trial, one of your priorities is going to be to review
25 those transcripts, determine if there are follow-ups

1 necessary, that kind of thing?

2 MR. McCONNERY: Yes.

3 MS. SIMMS: And she refers in her letter as
4 well -- her last line is:

5 "I'm endeavouring to ensure that the
6 next shipment to you contains the final
7 materials to be provided to you in this
8 case, including complete correspondence
9 files."

10 MR. McCONNERY: Yes.

11 MS. SIMMS: So presumably you are not
12 possession of the Crown correspondence file yet?

13 MR. McCONNERY: Yeah.

14 THE COMMISSIONER: And that's on the
15 MacDonald file?

16 MR. McCONNERY: Yes.

17 MS. SIMMS: So the next document I'd ask you
18 to refer to, Mr. McConnery, is Document Number 110322.

19 THE COMMISSIONER: So during this time, sir,
20 are you in communication with her at all on the phone or
21 anything like that?

22 MR. McCONNERY: No.

23 THE COMMISSIONER: Not at all?

24 MR. McCONNERY: No.

25 THE COMMISSIONER: Okay. Thank you.

1 Exhibit 3048 is a letter dated February 27th,
2 2002 to Mr. McConnery from Shelley Hallett.

3 **--- EXHIBIT NO./PIÈCE NO. P-3048:**

4 (110322) Letter from Shelley Hallett to
5 Lorne McConnery re: Preliminary Inquiry
6 Transcripts, dated February 27, 2002

7 **MS. SIMMS:** I can't recall if I mentioned it
8 should be marked subject to publication ban.

9 **THE COMMISSIONER:** Whenever you say it, it
10 is.

11 **MS. SIMMS:** Okay.

12 So, Mr. McConnery, this is the final letter
13 I'm taking you to with respect to the file transfer and
14 it's dated February 27th, 2002.

15 **MR. McCONNERY:** Yes.

16 **MS. SIMMS:** Do you need to review the ---

17 **MR. McCONNERY:** Well, I've looked at it.
18 It's a list of items, yes.

19 **MS. SIMMS:** So it appears that the final
20 materials to be provided to you were not provided until
21 February 27th, 2002?

22 **MR. McCONNERY:** Yes.

23 **MS. SIMMS:** Okay. And it's indexed there;
24 most materials provided are videotapes and audiotapes?

25 **MR. McCONNERY:** Yes.

1 **MS. SIMMS:** And there's also provided the
2 correspondence file we just mentioned?

3 **MR. McCONNERY:** Correct.

4 **MS. SIMMS:** Indictments and information's;
5 pre-trial conference reports; a file on the April 18th, 2000
6 adjournment; a file on the August 23rd, 2000 adjournment;
7 and correspondence and notes to file from Pelletier?

8 **MR. McCONNERY:** Yes.

9 **MS. SIMMS:** So this is, to your knowledge,
10 is when you first receive these materials with respect to
11 the Charles MacDonald prosecution?

12 **MR. McCONNERY:** Oh, no, no. No, this is
13 when I get them from her. But the police have copies of
14 all these videotapes.

15 **MS. SIMMS:** The video -- sorry, I'm
16 referring to the second box and possibly these may have
17 contained -- may have had ---

18 **MR. McCONNERY:** No, you're right.

19 **MS. SIMMS:** --- Ms. Hallett's
20 correspondence?

21 **MR. McCONNERY:** Yes, you're right.

22 **MS. SIMMS:** Okay.

23 So at that point, the trial was still set to
24 proceed on March 18th, 2002?

25 **MR. McCONNERY:** It was.

1 **MS. SIMMS:** So this is relatively shortly
2 before the start of the trial date?

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** So this was not an ideal
5 transfer of the file from one Crown to another?

6 **MR. McCONNERY:** Fair enough.

7 **MS. SIMMS:** You would have liked to and
8 expected to get these materials a lot sooner?

9 **MR. McCONNERY:** No, I agree with you.

10 **MS. SIMMS:** Okay. And it was your -- well,
11 I'm not sure if this is the case, but we reviewed some
12 comments made by Ms. Hallett in earlier correspondence.

13 It's your impression that some of this delay
14 was due to the fall out from the Leduc matter and Ms.
15 Hallett's concerns in that regard?

16 **MR. McCONNERY:** Yes, I think that's
17 accurate.

18 **MS. SIMMS:** Was there anything else that
19 you're aware of that was contributing to the delay?

20 **MR. McCONNERY:** No, nothing that I was aware
21 of, no.

22 **THE COMMISSIONER:** So was there anything you
23 were unaware of?

24 **MR. McCONNERY:** Well, if there was, I'm
25 still unaware of it.

1 **THE COMMISSIONER:** Okay.

2 **MR. McCONNERY:** Okay.

3 **THE COMMISSIONER:** Okay.

4 **MS. SIMMS:** The Commissioner just asked you
5 whether you were in communication with Ms. Hallett
6 throughout this time period, and I just wanted to refer you
7 back to something you'd raised before -- refer you back to
8 Exhibit 3046.

9 **MR. McCONNERY:** Okay.

10 **MS. SIMMS:** That should be loose. So that
11 was the letter we just looked at dated July 27th, 2001.

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** Okay. And on the second page of
14 that letter, Bates page 538 ---

15 **MR. McCONNERY:** Yes.

16 **MS. SIMMS:** --- the fourth complete
17 paragraph, she writes:

18 "I have been strongly counselled
19 against having any further involvement
20 with Project Truth matters."

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** And then she goes on to say:

23 "I will not be providing my own
24 opinions on the briefs you're
25 reviewing."

1 Again, a separate issue, but is this what
2 you were referring to when you mentioned that it was your
3 understanding that she felt she was not in a position to
4 communicate ---

5 **MR. McCONNERY:** Yes.

6 **MS. SIMMS:** --- with you?

7 **MR. McCONNERY:** Yes.

8 **MS. SIMMS:** Okay.

9 And so her comment about having been
10 strongly counselled against having any further involvement
11 with Project Truth matters, you understood that to include
12 the Father Charles MacDonald prosecution?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** Okay.

15 So do you recall having further discussions
16 with her in the course of its transfer, on the substance of
17 the Father Charles prosecution on her views on the charges
18 or strategy? Did that occur?

19 **MR. McCONNERY:** Okay, you've got the
20 advantage of me. If it occurred, I think I would have
21 noted it.

22 **MS. SIMMS:** Okay, fair enough.

23 **THE COMMISSIONER:** And is it noted?

24 **MS. SIMMS:** Well, I don't think I recall.

25 There are a number of conversations about the file transfer

1 in May. You recall that?

2 MR. McCONNERY: Yes.

3 MS. SIMMS: And you think if you had noted
4 it -- if you had further conversations subsequent to that,
5 you would have noted it in your materials?

6 MR. McCONNERY: I think so.

7 MS. SIMMS: Okay.

8 I don't recall seeing those notes, Mr.
9 Commissioner, but ---

10 MR. McCONNERY: The only thing I would say
11 is though occasionally I would be in Barrie ---

12 THE COMMISSIONER: Right.

13 MR. McCONNERY: --- so I wouldn't have my --
14 the notepad I was using with me necessarily in Barrie if
15 she happened to call me.

16 MS. SIMMS: Okay.

17 MR. McCONNERY: But, you know, I don't have
18 any recall. I found that she was very upset when I talked
19 to her. I really tried not to bother her.

20 THE COMMISSIONER: M'hm.

21 MR. McCONNERY: Tried to leave it alone and
22 she had received legal advice not to say too much so ---

23 MS. SIMMS: Okay, right. So we've just gone
24 forward and addressed the trial transfer issue because it
25 was raised.

1 I want to go back now and discuss what was
2 occupying you in the summer of 2001 ---

3 **MR. McCONNERY:** Okay.

4 **MS. SIMMS:** --- which was review of a number
5 of investigative briefs.

6 **MR. McCONNERY:** Yes.

7 **MS. SIMMS:** Okay. Okay.

8 So let's turn our minds back to May, 2001,
9 post the adjournment that took place in April of 2001. The
10 trial date is now set to March, 2002, okay, so at some
11 point you were requested to review a number of outstanding
12 briefs that had been submitted to the Crown for an opinion?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** Okay. Can you tell us how that
15 came about or do you recall how that came about?

16 **MR. McCONNERY:** The first recollection I
17 have of it is that I received a call from the head -- the
18 head inspector for Criminal Investigation Bureau of OPP.
19 He was in an acting position. His name was Jim Miller.

20 **MS. SIMMS:** Okay.

21 **MR. McCONNERY:** Jim Miller called me. I
22 knew him as somebody I had fairly recently done a homicide
23 trial with and so I knew him, you know, sort of personally.
24 He called me. He's now in an acting capacity in the -- in
25 charge of the bureau and he somewhat made a joke about the

1 fact that I was in Ottawa and I was going to be reviewing a
2 whole bunch of briefs and I said, no, fool you, Jim, I'm
3 down here to do a specific trial and well, he told me then
4 that, you know, they had been speaking with I believe Mr.
5 Segal and Mr. Segal said he was going to ask him to do
6 this. So I got the information from Miller before I got it
7 from Mr. Segal.

8 MS. SIMMS: Okay.

9 MR. McCONNERY: All right? And then he told
10 me there was a -- not a huge -- there was a conspiracy
11 brief to review plus some other assault allegations that
12 had been left with Shelley Hallett and they would be
13 retrieved, given to me or I would get the police copies as
14 well ---

15 MS. SIMMS: M'hm.

16 MR. McCONNERY: --- and I would -- so my
17 assignment was changing somewhat.

18 MS. SIMMS: So I'm going to ask you to refer
19 to -- back to your notes that you still have in front of
20 you ---

21 MR. McCONNERY: Okay.

22 MS. SIMMS: --- hopefully; Exhibit 3042.

23 MR. McCONNERY: Okay, yes.

24 MS. SIMMS: And you have a note there. It's
25 at Bates page 908 and your handwritten page number is 7.

1 **MR. McCONNERY:** When you say Bates, there's
2 a document number and is that the little number on the top
3 left-hand corner?

4 **THE COMMISSIONER:** That's right. That's ---

5 **MR. McCONNERY:** That's the Bates number?
6 Okay, thank you. Nine-zero-eight (908), yes.

7 **MS. SIMMS:** Okay.

8 So do you have a note there dated May 23rd?

9 **MR. McCONNERY:** Yes.

10 **MS. SIMMS:** Okay. And it's a telephone call
11 from Jim Stewart.

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** And you note receiving copies of
14 emails and the note says:

15 "I to review other briefs and that same
16 to be done with some priority."

17 **MR. McCONNERY:** Correct.

18 **MS. SIMMS:** Okay. So this is -- presumably,
19 you've had your conversation with Jim Miller prior to this
20 date?

21 **MR. McCONNERY:** It may have been earlier the
22 same day, yes.

23 **MS. SIMMS:** Okay.

24 **MR. McCONNERY:** Yeah.

25 **MS. SIMMS:** And you now have a telephone

1 call from Mr. Stewart.

2 MR. McCONNERY: Yeah.

3 MS. SIMMS: Okay. So, again, did Mr.
4 Stewart give you any background on the matter or why it
5 needed to be prioritized?

6 MR. McCONNERY: What I seem to recall is
7 primarily it had been outstanding for a fair amount of
8 time.

9 MS. SIMMS: Okay. And you were aware that
10 these were briefs that had been generated through the
11 Project Truth investigation?

12 MR. McCONNERY: Yes, I was.

13 MS. SIMMS: And at this time, you have a
14 note from a few days later at the bottom of that same page
15 dated May 29th?

16 MR. McCONNERY: Yes.

17 MS. SIMMS: You have a meeting with Mr.
18 Stewart, Mr. Cooper and Graham Kelly. Who was Graham
19 Kelly?

20 MR. McCONNERY: He was in the Regional
21 Director's office; like an office manager.

22 MS. SIMMS: Okay.

23 MR. McCONNERY: Very hands-on in doing the
24 costing of things; things like that.

25 MS. SIMMS: So according to your note, your

1 meeting to discuss setting up an office in the -- and that
2 would be in the Ottawa office?

3 **MR. McCONNERY:** Correct, Ottawa courthouse.

4 **MS. SIMMS:** And that was arranged to
5 facilitate your review of the briefs. Is that correct?

6 **MR. McCONNERY:** It was to give me a
7 temporary place to start doing my work, yes.

8 **MS. SIMMS:** Okay.

9 And there's a note indicating that Mr.
10 Cooper has copies of several briefs and you will access
11 them from his office until you have an office and you
12 commence your review of one of those briefs on that same
13 day.

14 **MR. McCONNERY:** Yes.

15 **MS. SIMMS:** So -- and I understand, maybe
16 not right away but shortly thereafter, Mr. Phillips joins
17 you and assists you with the review?

18 **MR. McCONNERY:** Yes, I think he -- somewhere
19 more towards the end of June.

20 **MS. SIMMS:** Okay. So you start your review
21 immediately and you're reviewing a brief related to a
22 sexual assault allegation and we'll go through a summary of
23 the briefs a little later.

24 **MR. McCONNERY:** Okay.

25 **MS. SIMMS:** I just wanted to point you to a

1 further note at the bottom of that same page that we were
2 on, which was Bates page 909.

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** This is a -- we've referenced
5 this before -- it's during your trip to Toronto to pick up
6 those eight boxes of materials from Ms. Hallett.

7 **MR. McCONNERY:** Right, so I was going to
8 Ottawa. I went via Toronto and Jim Stewart was in Toronto
9 ---

10 **MS. SIMMS:** Okay.

11 **MR. McCONNERY:** --- so he travelled back to
12 Ottawa with me.

13 **MS. SIMMS:** Okay. So you -- on June 4th, you
14 were travelling from Barrie to Toronto, you picked up the
15 boxes, met with Mr. Stewart and you both travelled back to
16 Ottawa.

17 **MR. McCONNERY:** Yes, and ---

18 **MS. SIMMS:** Is that correct?

19 **MR. McCONNERY:** --- we had a meeting with
20 Mr. Segal I think.

21 **MS. SIMMS:** Okay.

22 And you have notes of your meeting with Mr.
23 Segal on the following page as well, which is Bates page
24 910.

25 **MR. McCONNERY:** Yes.

1 **MS. SIMMS:** So do you know why you were
2 requested to attend this meeting? What the purpose of the
3 meeting was?

4 **MR. McCONNERY:** M'hm, it's blacked out there
5 on one of the other pages ---

6 **MS. SIMMS:** Well ---

7 **MR. McCONNERY:** --- with ink, isn't it?

8 **MS. SIMMS:** No, I don't think so.

9 **MR. McCONNERY:** When I was speaking ---

10 **MS. SIMMS:** Maybe we're not on ---

11 **MR. McCONNERY:** --- to Susan Kyle.

12 **MS. SIMMS:** Let me just take you through ---
13 we -- let's just start ---

14 **THE COMMISSIONER:** What page have you -- I'm
15 sorry ---

16 **MS. SIMMS:** --- from your note on June 4th
17 which is Bates page 909; your handwritten page 8, okay?
18 And at the bottom ---

19 **MR. McCONNERY:** Oh, you're right. The Susan
20 Kyle note is July. I apologize.

21 **MS. SIMMS:** Okay. So you note at the bottom
22 notes, "Met Jim Stewart". This is on June 4th?

23 **MR. McCONNERY:** Yes.

24 **MS. SIMMS:** "He and I reviewed background
25 of Project Truth investigation so as to

1 be able to advise Murray Segal.
2 Neither of us have anything approaching
3 complete picture but some overview
4 knowledge."

5 **MR. McCONNERY:** Yes.

6 **MS. SIMMS:** Okay. And just following that,
7 you note your meeting with Mr. Segal, Mr. Stewart and Susan
8 Kyle?

9 **MR. McCONNERY:** Correct.

10 **MS. SIMMS:** Okay. So did you have an
11 understanding of what the purpose of this meeting is and
12 why you were being -- discussing the background at this
13 time?

14 **MR. McCONNERY:** I think it was to try to
15 give him ---

16 **THE COMMISSIONER:** Who is "him"?

17 **MR. McCONNERY:** Mr. Segal.

18 **THE COMMISSIONER:** Right.

19 **MR. McCONNERY:** To give Mr. Segal my view on
20 what I was about to deal with and how long it would take.

21 **MS. SIMMS:** Okay.

22 **MR. McCONNERY:** And whether I could do it in
23 30 days.

24 **MS. SIMMS:** Right.

25 And at that point in time you've received

1 some briefs from Mr. Cooper, but you had not yet received
2 the conspiracy brief; is that correct?

3 **MR. McCONNERY:** I believe so, yes.

4 **MS. SIMMS:** Okay. So you're discussing the
5 timeframe. Did you -- your notes indicate you discussed
6 the background. You discussed timeframe. You discussed
7 options of how you can expedite the review and you note
8 that Mr. Segal would like to have a review of these briefs
9 done in 30 days.

10 So I take it you had already been advised
11 that the matter should be prioritized?

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** And it was clear to you from
14 this meeting that there was a lot of concern about getting
15 this done as quickly as possible?

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** Is that fair?

18 **MR. McCONNERY:** Yes.

19 **MS. SIMMS:** Okay.

20 **MR. McCONNERY:** And I think the comment
21 about expediting it was "Get yourself out of whatever
22 you're doing in Barrie." I think that was the nuts and
23 bolts in that.

24 **MS. SIMMS:** Okay. So it was your
25 understanding from this meeting that this was first

1 priority and you were to devote yourself full time or as
2 full time as possible to the review?

3 **MR. McCONNERY:** Correct.

4 **MS. SIMMS:** Okay.

5 **THE COMMISSIONER:** So at that meeting you
6 were discussing the conspiracy brief as well?

7 **MR. McCONNERY:** Well, to some extent. I
8 don't think I had a conspiracy brief yet.

9 **THE COMMISSIONER:** Well, it says "five
10 individuals plus the conspiracy brief".

11 **MR. McCONNERY:** Yeah, discussed the
12 background of the allegations and the timeframe that I
13 needed to review those six briefs.

14 **THE COMMISSIONER:** All right.

15 So generally speaking, the people that were
16 at the meeting, they were concerned about getting the
17 review of those documents done?

18 **MR. McCONNERY:** Yes, very much so.

19 **THE COMMISSIONER:** Did they express any
20 opinion about the conspiracy brief, whether you know, there
21 was nothing to it or were they, you know ---

22 **MR. McCONNERY:** No. As a matter of fact, I
23 eventually had a meeting with Murray Segal where he asked
24 me to detail the allegations.

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

1 **MR. McCONNERY:** And actually what happened
2 was he came to Ottawa to go to a swearing in of a local
3 judge and he asked me to accompany him and to explain to
4 him as we travelled. I did that. It was clear to me that
5 he didn't know much at all about the conspiracy allegation.

6 The conspiracy allegation that I was looking
7 at was a very specific allegation of Ron Leroux about a
8 meeting and whether or not that meeting precipitated the
9 agreement with Mr. Silmsler. Mr. Silmsler -- sorry, he's not
10 on the list either.

11 **THE COMMISSIONER:** No.

12 **MR. McCONNERY:** And that's when I looked at
13 it. It was a very specific conspiracy that I was
14 reviewing. There was quite a large brief about it, and I
15 don't think we had really gotten into it by this time.

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

17 **MR. McCONNERY:** But I had a little bit of
18 background. You know, I had Pat Hall's input on it and
19 things of that nature.

20 **THE COMMISSIONER:** But what was Pat Hall
21 telling you about the conspiracy? "It doesn't exist"?

22 **MR. McCONNERY:** No, no.

23 **THE COMMISSIONER:** He wasn't voicing any
24 opinion that way or ---

25 **MR. McCONNERY:** No.

1 **THE COMMISSIONER:** --- yes, it does?

2 **MR. McCONNERY:** No. As a matter of fact,
3 later in my notes somewhere I sit down with Pat and I say,
4 point blank, "Like, tell me whether or not you are prepared
5 to have an officer swear that he has R&PG or do you have
6 R&PG."

7 **THE COMMISSIONER:** Right.

8 **MR. McCONNERY:** So at this point he is very
9 much, "No, here are the briefs. We want your input on
10 them. We want your advice." That's an issue Crowns deal
11 with a lot, like is this a appropriate to say -- is this a
12 CYA exercise by the police?

13 **THE COMMISSIONER:** And CYA means, just for
14 the record? Cover your ass?

15 **MR. McCONNERY:** Cover your behind, yes.

16 **THE COMMISSIONER:** Okay.

17 **MR. McCONNERY:** You know, is that the kind
18 of exercise or is it something where they really need
19 direction on another issue.

20 And it's very clear when I do all of this
21 that the police never felt they had reasonable and probable
22 grounds, so why am I reviewing it, you know?

23 **THE COMMISSIONER:** Right.

24 **MR. McCONNERY:** But maybe it's for advice
25 and for help. So we -- and there were a lot -- well, I'm

1 getting very far afield. I'm sorry.

2 MS. SIMMS: Okay. We'll come to that and I
3 note the meeting to which you refer.

4 So with respect to -- let's just have some
5 general outline of the review you're undertaking. So you
6 have five briefs that you receive from Mr. Cooper dealing
7 with sexual assault allegations?

8 MR. McCONNERY: Yes.

9 MS. SIMMS: And you have this discussion
10 about concerns about how long it's going to take you to
11 review ---

12 MR. McCONNERY: Yes.

13 MS. SIMMS: --- and some timelines that are
14 optimistically being set for your review.

15 And I just -- at the time, you don't have
16 the full conspiracy brief, but I note on the following
17 page, which is -- I'm losing my eyesight -- Bates page 911
18 ---

19 MR. McCONNERY: Yes.

20 MS. SIMMS: Your page 10.

21 MR. McCONNERY: Yes.

22 MS. SIMMS: So you have a note there. In
23 the middle of the page it starts with the word "note".
24 Earlier in the morning, you spoke to Susan Kyle and this
25 conversation, I take it, probably related back to your

1 meeting about timeliness in your review?

2 MR. McCONNERY: Yes.

3 MS. SIMMS: Okay. And you advised her of
4 the approximate number of volumes and pages in the five
5 briefs, plus the 3,200-page brief that you hadn't yet
6 received on the conspiracy?

7 MR. McCONNERY: Yes.

8 MS. SIMMS: And I'm not sure if in addition
9 to that there's 500 to 600 pages of Dunlop notes?

10 MR. McCONNERY: That's correct, yes.

11 MS. SIMMS: So you were faced with
12 approximately -- as far as you knew at that time, you had
13 approximately 8,000 pages to review with a lot of
14 duplication?

15 MR. McCONNERY: Correct.

16 MS. SIMMS: Okay. So this is, once again,
17 perhaps a bigger undertaking than you had thought when you
18 were first assigned?

19 MR. McCONNERY: Yes. And that 8,000 pages
20 grew substantially.

21 MS. SIMMS: It did grow, and we're going to
22 go through that.

23 So you do receive the conspiracy brief on
24 the following page of your note, Bates page 912. You have
25 a note right at the top of the page dated June 13th where

1 you meet with Inspector Hall and Constable Dupuis and
2 there's a discussion regarding conspiracy briefs. Now,
3 this isn't the discussion to which you were referring just
4 a moment ago, but they do provide you at that time with a
5 copy of the conspiracy brief?

6 **MR. McCONNERY:** I think the discussion here
7 was they weren't happy to have to be giving me another
8 copy.

9 **MS. SIMMS:** Okay. So the discussion here is
10 about the fact, is it, that Ms. Hallett still has a copy of
11 the conspiracy brief?

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** And they thought Ms. Hallett
14 should be giving you her copy and that they shouldn't have
15 to?

16 **MR. McCONNERY:** Right. Hence my comment; I
17 had to arrange for the photocopying and returning of their
18 copy.

19 **MS. SIMMS:** Okay. Fair enough.
20 In any case, you did do that?

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** And so now you had with you the
23 full conspiracy brief as well; correct?

24 **MR. McCONNERY:** Okay. The full conspiracy
25 brief, what I had is the bound brief.

1 **MS. SIMMS:** The brief that had been prepared
2 by the OPP ---

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** --- to be presented to the Crown
5 for an opinion?

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

7 **MS. SIMMS:** Okay. And so I know you
8 discussed a number of -- or you made a number of further
9 requests for further materials, and we can go through that
10 now if you'd like.

11 And you have a number of requests that sort
12 of span the time of your review of all these materials. So
13 I assume that as you're reviewing, things are coming to
14 your attention and you're making further requests. Is that
15 fair?

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** And your review spans, well, the
18 full month of June and July of that year?

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** And you spent some time into
21 August working on it?

22 **MR. McCONNERY:** I believe so, yeah. M'hm.

23 **MS. SIMMS:** And you're working ---

24 **MR. McCONNERY:** And by the way, in there I
25 got the brief from Shelley Hallett. Right. It's noted.

1 **MS. SIMMS:** Yes. Just shortly after that
2 you were provided with the brief from Ms. Hallett?

3 **MR. McCONNERY:** Yes, June 25th.

4 **MS. SIMMS:** Okay. So in your work you're
5 working with Mr. Phillips; is that fair, to review all that
6 material?

7 **MR. McCONNERY:** You know, I don't know when
8 Kevin was free to be -- starting to work with me. I
9 thought -- I would have said it was the end of June.

10 **MS. SIMMS:** So at some point he comes on
11 board and he's working full time on the matter as well?

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** Okay. So ---

14 **MR. McCONNERY:** Oh, I'm sorry, it's the next
15 page:

16 "July 3rd, return to Ottawa. Kevin
17 Phillips is now free to assist in our
18 review."

19 **MS. SIMMS:** So you were about right, end of
20 June, early July?

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** So it takes a large amount of
23 your time and full-time work to review all these materials?

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** And let's just go through some

1 of the additional materials you received as well.

2 And, as I said, I think there's a series of
3 requests that you make to the officers for further
4 materials, presumably based on issues that arise during
5 your review?

6 **MR. McCONNERY:** Yes.

7 **MS. SIMMS:** I think that the first of these
8 documents, Mr. Commissioner, is an exhibit that I didn't
9 give notice on. It's already been made an exhibit.

10 **THE COMMISSIONER:** Oh, well that's okay. As
11 long as it's ---

12 **MS. SIMMS:** Just of a list of documents that
13 Mr. McConnery received.

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

15 **MS. SIMMS:** So it's Exhibit number 2652 and
16 it's Document Number 702458.

17 **THE COMMISSIONER:** Well, I can just take it
18 on the screen, Madam Clerk. It's just a list, Ms. Simms?

19 **MS. SIMMS:** It's a -- yes, it's a letter
20 with a list of enclosures provided by Inspector Hall to Mr.
21 McConnery.

22 So this letter, Mr. McConnery, references
23 are crossed by you for the material?

24 **MR. McCONNERY:** Yes, that's correct.

25 **MS. SIMMS:** Okay, and the further materials

1 relate to the conspiracy brief as well as the Kevin Maloney
2 brief?

3 **MR. McCONNERY:** Can you scroll that down?
4 Can you tell me the date of that?

5 **MS. SIMMS:** It's July 4th, 2001.

6 **MR. McCONNERY:** Okay, thank you, yes.

7 **MS. SIMMS:** Okay. So one of the things you
8 -- there's a number of requests in there. There a number
9 of documents that are provided there, but one of the things
10 that are provided are will say and notes from the
11 investigating officers from Project Truth; Detective
12 Constable Dupuis, Constable Genier, Detective Constable
13 Steve Seguin and Detective Inspector Smith?

14 **MR. McCONNERY:** Yes.

15 **MS. SIMMS:** And the letter at the bottom
16 also references that Inspector Hall will also be providing
17 will say and notes. So those -- I take it the will says
18 and notes were not in the briefs that you were initially
19 provided?

20 **MR. McCONNERY:** Yes, I think that's
21 accurate.

22 **MS. SIMMS:** And is that unusual at all and
23 was ---

24 **THE COMMISSIONER:** Just a second, just a
25 second.

1 (SHORT PAUSE/COURTE PAUSE)

2 MS. SIMMS: Do you recall if you noticed
3 that there were -- that you were missing will says and
4 notes when you were reviewing conspiracy brief and did you
5 make a request in that regard?

6 MR. McCONNERY: The letter tells me I may.
7 It says, "as per your request".

8 MS. LAHAIE: Mr. Commissioner, just to be
9 clear and Mr. -- Officer Hall wasn't questioned on this and
10 that's the reason I feel the need to rise.

11 It's my information that what would occur is
12 that -- and perhaps this could be put to Mr. McConnery --
13 but what would occur is that when there was let's say a new
14 statement, what would occur is that the officers would send
15 the new statement to the Crown, along with the replacement
16 index indicating the new statement and the officer's notes
17 for the officer who was present during the taking of that
18 statement.

19 In other words, disclosure was provided
20 incrementally as matters would develop and it's my
21 information that this is what occurred with the conspiracy
22 brief as well.

23 And so perhaps that could be put to Mr.
24 McConnery as a possibility, that he had these officers'
25 notes but that further incremental disclosure was provided

1 as further developments occurred.

2 **THE COMMISSIONER:** Ms. Simms?

3 **MR. McCONNERY:** Is that a fair comment?

4 **MS. SIMMS:** I'm certainly happy to put that
5 to you, Mr. McConnery, if you have a view.

6 **MR. McCONNERY:** Very typically, if things
7 are being added to a brief, yes, and you get the notes.
8 But I mean the first item here is the statement of February
9 '94, it's obviously not new. I take that to mean that I
10 was aware of -- or there was a reference to the statement
11 that wasn't in the brief so I asked for it. And then,
12 typically, I believe, Detective Inspector Hall or somebody
13 else would then send you a new index to reflect that that
14 was now in the brief.

15 So whether or not, for instance, in volume 7
16 those are all new notes, I don't remember that now but,
17 again, you go down to volume 9, a new index, "Ken Seguin,
18 Death Investigation Report, November '93". Obviously
19 that's not new information but it was probably something I
20 asked for.

21 **MS. SIMMS:** Okay. So would you expect there
22 to be -- or is it important to you to review will says and
23 officers' notes?

24 **MR. McCONNERY:** Yeah. So can I jump back to
25 the question you were asking me earlier?

1 MS. SIMMS: Sure.

2 MR. McCONNERY: Is that unusual?

3 MS. SIMMS: Yes.

4 MR. McCONNERY: If you are involved in
5 reviewing police briefs ---

6 MS. SIMMS: M'hm.

7 MR. McCONNERY: --- you often don't get
8 police notes.

9 MS. SIMMS: And do you make it a practice to
10 request the police notes in your review?

11 MR. McCONNERY: Oh, I make it a practice and
12 I'm hounded by defence counsel for them as well. It just
13 seems to be one of those things; please do a brief. They
14 give you the victim, they give you the witnesses, don't
15 give us their notes and then we start writing for them.

16 I think in major cases that has dramatically
17 improved over what it was before but -- I do an impaired
18 driving trial, one of the Crowns in my office does, they
19 have to write and get the police officer's notes. It's
20 very typical.

21 MS. SIMMS: And that takes some time that
22 could have not been spent had they just been included from
23 the beginning?

24 MR. McCONNERY: Absolutely.

25 MS. SIMMS: Okay. So in addition to the

1 notes and will says that are listed here, you mentioned an
2 occurrence report regarding Ken Seguin's death
3 investigation?

4 **MR. McCONNERY:** Yes.

5 **MS. SIMMS:** And then there's some further,
6 aside from will says, there's further materials including -
7 - I should point out, Mr. McConnery, there's a name here
8 that's subject to a moniker just so you know. So page 2 --
9 -

10 **MR. McCONNERY:** Can somebody scroll this
11 down. I can't see page 2.

12 **THE COMMISSIONER:** There you go.

13 **MR. McCONNERY:** Thank you.

14 **MS. SIMMS:** It's page 2 under point 2 ---

15 **MR. McCONNERY:** Yeah.

16 **MS. SIMMS:** --- there's a reference to an
17 alleged victim's name and that's subject to the moniker C-
18 15, just so you know.

19 **MR. McCONNERY:** Okay, C-15 is not on my
20 list.

21 **THE COMMISSIONER:** Is what? Is not?

22 **MR. McCONNERY:** It's not on my list. Okay.

23 **THE COMMISSIONER:** Well, we're -- you want
24 to show him who C-15 -- you know who C-15 is?

25 **MR. McCONNERY:** Well, I do now.

1 **MS. SIMMS:** I just pointed it out in
2 documents to him now.

3 **THE COMMISSIONER:** Okay.

4 **MS. SIMMS:** So you've also requested some
5 additional information with request to C-15's allegation,
6 and you also requested a further file down at number 4, and
7 this is -- do you recall this as being the investigation
8 into allegation of extortion?

9 **MR. McCONNERY:** Yes, I do.

10 **MS. SIMMS:** Okay. So now already you have
11 significantly more material than you started out with to
12 review?

13 **MR. McCONNERY:** Yes, and I don't think this
14 is an exhaustive list.

15 **MS. SIMMS:** No, indeed. And you also --
16 there is reference there to the issue of the photocopies
17 being made of the Dunlop material. So that's ongoing
18 during this time period. Is that fair to say?

19 **MR. McCONNERY:** Yes, I believe so, yes.

20 **MS. SIMMS:** If we could go back to your
21 notes, Mr. McConnery, which was Exhibit 3042 in your
22 binder?

23 **MR. McCONNERY:** Yes, I have that.

24 **MS. SIMMS:** Look at Bates page 915, it's
25 your handwritten page 13.

1 **MR. McCONNERY:** Yes.

2 **MS. SIMMS:** And so -- just -- you were
3 mentioning other materials that you were continuing
4 requests for materials and on the top of that page, you
5 note speaking to Inspector Hall. You advised you still
6 wanted a copy of the notes in the MacDonald sexual assault
7 brief and there may be other -- is that outstanding briefs?

8 **MR. McCONNERY:** Yes.

9 **MS. SIMMS:** Okay, so that's a further
10 request for materials?

11 **MR. McCONNERY:** Yes.

12 **MS. SIMMS:** And that was related to your
13 review of the conspiracy brief, was it?

14 **MR. McCONNERY:** Yes, I would say it was with
15 respect to the conspiracy.

16 **MS. SIMMS:** Okay. And so you had spent --
17 I'm not going to go through it -- but from your notes, you
18 had spent a fair amount of time up to this point reviewing
19 the conspiracy brief. Is that a review you undertook
20 yourself?

21 **MR. McCONNERY:** No, it's review I did.

22 **MS. SIMMS:** Okay, so personally you reviewed
23 the conspiracy allegations?

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** And I understand did you also

1 review the allegations with respect to Bishop LaRocque?

2 MR. McCONNERY: Bishop LaRocque, yes, I did.

3 MS. SIMMS: And also Gary Ostler?

4 MR. McCONNERY: Yes.

5 MS. SIMMS: Okay. And I understand -- what
6 were the balance -- were those the briefs that you were
7 personally reviewing and the balance were being reviewed by
8 Mr. Phillips, or do you recall?

9 MR. McCONNERY: We split them to some
10 extent. I would say there were -- at some point I read the
11 briefs he was reviewing.

12 MS. SIMMS: M'hm?

13 MR. McCONNERY: And I believe he likely read
14 the conspiracy brief, too. I was doing most of the legwork
15 on it.

16 He looked at it and reviewed it, and I felt
17 it was -- I felt it was to keep him up-to-speed, but it's
18 always nice to have a second pair of eyes as well.

19 MS. SIMMS: Okay.

20 MR. McCONNERY: So we -- I think we both
21 reviewed all of the matters, I believe.

22 MS. SIMMS: And with respect to the matters
23 you were presented with, the five briefs ---

24 MR. McCONNERY: The five, yes.

25 MS. SIMMS: I believe it's the sexual

1 assault allegations.

2 The first, with respect to -- well, in no
3 particular order, the first brief that you started looking
4 at was the brief relating to Gary Ostler?

5 **MR. McCONNERY:** Correct.

6 **MS. SIMMS:** And those related to allegations
7 that had been made by Ron Leroux. Is that correct?

8 **MR. McCONNERY:** Yes.

9 **MS. SIMMS:** Okay. And, similarly, you had -
10 - you were reviewing briefs with respect to Bishop
11 LaRocque, Bernard Cameron, and Donald McDougald, that all
12 related to allegations made by Ron Leroux?

13 **MR. McCONNERY:** Yes, and that may have been
14 the way we divided them.

15 **MS. SIMMS:** Okay.

16 **MR. McCONNERY:** Ron Leroux was, obviously,
17 significantly involved in the conspiracy investigation and
18 I did that, and the other briefs where he was -- was the
19 complainant.

20 **MS. SIMMS:** Well, those four I just named
21 were all dealing with allegations by Ron Leroux.

22 **MR. McCONNERY:** Correct.

23 **MS. SIMMS:** There was a conspiracy brief,
24 and then there was just one further brief which was
25 relating to allegations by C-15 against Kevin Maloney;

1 correct?

2 **MR. McCONNERY:** Yes. That was done by Kevin
3 Phillips, but I can tell you I read it.

4 **MS. SIMMS:** So you read it? So was it your
5 view that it was important to review all of these briefs or
6 familiarize with all of these briefs in conjunction,
7 together, in order to come to your best opinion with
8 respect to each of the allegations?

9 Let me put it this way. If Ron Leroux was
10 the complainant with respect to four of the briefs, he also
11 had some involvement as a potential witness in the
12 conspiracy brief; correct?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** So was it your view that it was
15 helpful to you to review all of these materials in making
16 your assessment as to what opinion you need to provide to
17 the police?

18 **MR. McCONNERY:** Because of the nature of the
19 allegation of conspiracy to obstruct and the people who
20 were mentioned in that allegation, I felt it was important.
21 If it had Ron Leroux's fingerprint on it or his name on it,
22 I wanted to review it.

23 **MS. SIMMS:** Okay.

24 **MR. McCONNERY:** I wanted to be in some
25 position to be able to assess his credibility, generally

1 speaking, because his credibility was -- I flagged from the
2 moment I started when I reviewed the videos and transcripts
3 of his interview by the Orillia OPP Detachment.

4 **MS. SIMMS:** All right. So you reviewed his
5 file off the videotapes that you were provided? Or, at
6 least some of them, I take it?

7 **MR. McCONNERY:** Certainly some of them. I
8 don't know that I watched every videotape.

9 **MS. SIMMS:** Okay.

10 **MR. McCONNERY:** We didn't spend a lot of
11 time in that office watching videos, but I watched -- I can
12 tell you, I watched Ron Leroux's.

13 **MS. SIMMS:** Okay, all right.

14 You mentioned previously a discussion you
15 had with Mr. Segal during a trip?

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** And you do have notes of that on
18 the bottom of the page that we were just on.

19 **MR. McCONNERY:** Correct.

20 **MS. SIMMS:** Okay?

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** So you have a note, and this is
23 a July 5th note, it's Bates page 915, and you note that on
24 the trip you were briefing Mr. Segal as to your
25 understanding of the conspiracy allegations?

1 **MR. McCONNERY:** Yes.

2 **MS. SIMMS:** So you had not at this time
3 reviewed all the material that you eventually receive
4 because you do make further requests but, at this point,
5 you've reviewed the conspiracy brief and some of the
6 further documents he requested?

7 **MR. McCONNERY:** M'hm.

8 **MS. SIMMS:** Is that right?

9 **MR. McCONNERY:** Yes.

10 **MS. SIMMS:** And this is the discussion you
11 were referring to when you said it was your impression that
12 Mr. Segal did not have at that -- prior to your
13 conversation, a thorough understanding of the conspiracy
14 allegations?

15 **MR. McCONNERY:** Right.

16 **MS. SIMMS:** Right?

17 **MR. McCONNERY:** Right. And what I'm talking
18 there is about primarily the allegation of Ron Leroux as to
19 the conspiracy.

20 **MS. SIMMS:** And by that ---

21 **MR. McCONNERY:** You know, there's
22 a -- there's a lot happens with the Silmser agreement.

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

24 **MR. McCONNERY:** And I believe Mr. Segal was
25 familiar with that.

1 And then there was the allegation of Leroux
2 about a huge meeting with all kinds of significant people -
3 - significant to the administration of justice -- people
4 involved. I didn't believe Mr. Segal to be fully apprised
5 of those circumstances.

6 **MS. SIMMS:** Okay.

7 **MR. McCONNERY:** And that's what I told him
8 on that day was about that.

9 **THE COMMISSIONER:** How did he react to that?

10 **MR. McCONNERY:** He -- I think his reaction
11 was, "Wow, what a story that is," that kind of reaction,
12 and I -- was there anything else? I think he put it to me
13 was like, "Do you think there is anything to this?"

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

15 **MR. McCONNERY:** "Do you think that this
16 is...?", you know, and so I was -- it was me giving him my
17 opinion at that time not ---

18 **THE COMMISSIONER:** M'hm? And what was your
19 opinion at that time?

20 **MR. McCONNERY:** It was not a very strong
21 opinion as to the obstruct. I felt that Ron Leroux had
22 very, very significant credibility issues, and anything
23 that the officers had looked to confirm what he said was
24 not confirmatory, and anything that -- anything about him
25 was a negative reflection on him, I thought.

1 **MS. SIMMS:** You note on the following page
2 which is Bates page 916 ---

3 **MR. McCONNERY:** M'hm?

4 **MS. SIMMS:** --- you have a list of -- and is
5 this a list of suggestions that Murray Segal gave you
6 during this briefing? It certainly appears that way.

7 **MR. McCONNERY:** Yes, it does, actually. And
8 you know what confirms that to me is number 5 was something
9 that he advised me on and that is, you're doing this review
10 but you know, Lorne, make sure you get the position of the
11 police on these things.

12 And that was a direction he gave me and --
13 that's -- so I do think that list is something I made in my
14 notes later, obviously, but I tried to capture what it was
15 he was suggesting I do.

16 **MS. SIMMS:** Okay. And does this reflect
17 back -- you were mentioning before your questions about why
18 you'd be undertaking a review if the police were of the
19 view ---

20 **MR. McCONNERY:** Yes.

21 **MS. SIMMS:** --- they didn't have reasonable
22 and probable grounds?

23 **MR. McCONNERY:** Yes.

24 **MS. SIMMS:** And was that a discussion on
25 this point that took place on this trip?

1 **MR. McCONNERY:** This was a discussion as to
2 whether or not my review was on the question of reasonable
3 and probable grounds versus the typical question of
4 reasonable prospect of conviction; two related but
5 different concepts.

6 **MS. SIMMS:** M'hm.

7 **MR. McCONNERY:** And that it was clear that
8 these were R&PG reviews we were doing, if I can use that
9 expression.

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

11 **MR. McCONNERY:** And that part of my
12 responsibility was to go back to the police and say, well,
13 please tell me what you're whether or not you feel you have
14 reasonable and probable grounds.

15 A lot of police would like the Crown to tell
16 them they have reasonable grounds and that's not our role;
17 it's not what we do.

18 **MS. SIMMS:** And how did you see your role in
19 conducting your review of reasonable and probable grounds?

20 **MR. McCONNERY:** How did I see my role? I
21 was reviewing the files to determine whether or not
22 reasonable grounds existed, in my view, or whether or not
23 the views of the police were reasonably founded.

24 And so if the guidance he was giving me was,
25 well then, make sure you get from the police what their

1 views are, because I don't think they had been communicated
2 at that point.

3 MS. SIMMS: Okay.

4 MR. McCONNERY: So I'm probably doing
5 precisely what I said, that we don't do usually.

6 MS. SIMMS: M'hm.

7 MR. McCONNERY: But if we're going -- the
8 police will give you a brief and however they word it,
9 it's, you know, "Do you think I should lay a charge?"
10 That's the way an officer would do it, give
11 you a brief, "Do you think I should lay a charge?" and he's
12 not saying to you, I don't think I have reasonable and
13 probable grounds.

14 MS. SIMMS: M'hm.

15 MR. McCONNERY: And you come back and you
16 say, wow, this is quite a story; it's quite a mess. I
17 don't know how you could say you believe this or you
18 believe that, and that's the kind of discussion I might
19 have.

20 MS. SIMMS: So you do, in fact, have a
21 meeting, and you've referred to that meeting with Inspector
22 Hall and Constable Dupuis ---

23 MR. McCONNERY: Yes.

24 MS. SIMMS: --- for the purposes of
25 determining what their views are?

1 **MR. McCONNERY:** Well, I asked the question
2 to determine that. The meeting wasn't for that purpose, I
3 don't think.

4 **MS. SIMMS:** Okay.

5 **MR. McCONNERY:** It came out during the
6 meeting.

7 **MS. SIMMS:** Sure. Okay.

8 So I'm going to ask you to refer to one of
9 your notes which is a new document, Document Number 130310.

10 **THE COMMISSIONER:** Thank you.

11 Exhibit Number 3049 is Mr. ---

12 **MS. SIMMS:** I think these are notes of
13 yours, Mr. McConnery, titled "Questions for Pat Hall"?

14 **MR. McCONNERY:** Yes.

15 **THE COMMISSIONER:** There you go. Exhibit
16 3049.

17 **--- EXHIBIT NO./PIÈCE NO. P-3049:**

18 (130310) - Notes of Lorne McConnery re:
19 Questions for Pat Hall

20 **THE COMMISSIONER:** And do we have any idea
21 of dates when you would have ---

22 **MS. SIMMS:** Well, Mr. McConnery, I'm going
23 to -- the next document I'll be referring to, Mr.
24 Commissioner, is notes from that meeting, the meeting of
25 July 10th, 2001.

1 **THE COMMISSIONER:** Okay.

2 **MS. SIMMS:** But these appear to be notes,
3 Mr. McConnery, prepared in preparation for that meeting.
4 Is that correct?

5 **MR. McCONNERY:** Yes.

6 **MS. SIMMS:** Okay. So are you -- prepared on
7 or about July 10th. Is that ---

8 **MR. McCONNERY:** I guess it's shortly after
9 the meeting I had with Murray Segal and it references some
10 of the issues we discussed.

11 **MS. SIMMS:** And, sir, some of the issues
12 that refer back to suggestions that were given to you by
13 Mr. Segal in terms of obtaining additional briefs?

14 **MR. McCONNERY:** Yes.

15 **MS. SIMMS:** So you were requesting the
16 Malcolm MacDonald brief, number one?

17 **MR. McCONNERY:** M'hm.

18 **MS. SIMMS:** And does that reference the
19 attempt to obstruct justice charges? Your next reference
20 is to request for a transcript from guilty plea.

21 **MR. McCONNERY:** Yes. Yes, I guess it was.
22 I just paused because I knew, of course, that Malcolm was
23 the subject of another investigation.

24 **MS. SIMMS:** So it might have been that brief
25 as well?

1 **MR. McCONNERY:** Yes, but I think it was the
2 -- yes, the obstruct.

3 **MS. SIMMS:** Okay. And you have another --
4 you have a list of additional requests for further
5 information from the police?

6 **MR. McCONNERY:** Yes.

7 **MS. SIMMS:** Okay.

8 **MR. McCONNERY:** It looks like somebody
9 else's handwriting is on this note too, not just mine.
10 That note two-thirds of the way down the page, I don't
11 think that's my handwriting.

12 **MS. SIMMS:** The OPP investigation ---

13 **MR. McCONNERY:** No, "C Crim Ins Comp Bd
14 material", I don't think that's my writing.

15 **MS. SIMMS:** Okay. So this is an outline of
16 materials to be requested at your meeting, and then the
17 other purpose of the meeting was to follow up on Mr.
18 Segal's request to obtain the police views on RPG?

19 **MR. McCONNERY:** Well, I certainly did that,
20 yes.

21 **MS. SIMMS:** Okay.

22 Mr. Commissioner, I can turn to that meeting
23 now if you'd like to ---

24 **THE COMMISSIONER:** I'd prefer to -- I have a
25 meeting this afternoon, so let's take lunch.

1 **MS. SIMMS:** Okay.

2 **THE COMMISSIONER:** We'll come back at 2:00.

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

5 This hearing will resume at 2:00 p.m.

6 --- Upon recessing at 12:25 p.m./

7 L'audience est suspendue à 12h25

8 --- Upon resuming at 2:07 p.m./

9 L'audience est reprise à 14h07

10 **THE REGISTRAR:** This hearing is now resumed.

11 Please be seated. Veuillez vous asseoir.

12 **THE COMMISSIONER:** Ms. Simms?

13 **MS. SIMMS:** Good afternoon.

14 **LORNE McCONNERY, Resumed/Sous le même serment:**

15 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.**
16 **SIMMS (cont'd/suite):**

17 **MS. SIMMS:** Good afternoon, Mr. McConnery.

18 When we left off this morning, we were
19 discussing a meeting you had on July 10th with Inspector
20 Hall and I intend to go right back to there, but I just
21 thought it might be helpful to get your mind back into the
22 briefs that you were looking at just to briefly outline
23 what those allegations were contained in the briefs. So
24 I'm going to do that now and then we'll return to the
25 meeting.

1 **MR. McCONNERY:** Okay.

2 **MS. SIMMS:** Okay?

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** So we've listed the briefs that
5 you were provided, and the first one I'm going to reference
6 was allegations with respect to Bernard Cameron, and those
7 allegations, if you recall, were based on statements made
8 by Ron Leroux and they were with respect to allegations of
9 abuse while Ron Leroux was a student at St. Columban's Boys
10 School in the 1950s.

11 Do you recall that being the substance of
12 that brief?

13 **MR. McCONNERY:** No, I don't.

14 **MS. SIMMS:** You don't have any recollection
15 of that brief?

16 **MR. McCONNERY:** No, I don't.

17 **MS. SIMMS:** And, similarly, the brief with
18 respect to Donald McDougald with, again, a complaint by Ron
19 Leroux with respect to allegations relating to his time at
20 St. Columban's?

21 **MR. McCONNERY:** I haven't seen those briefs
22 since. I don't recall the particulars.

23 **MS. SIMMS:** You don't recall those briefs?

24 **MR. McCONNERY:** No.

25 **MS. SIMMS:** And do you recall whether it was

1 yourself or Kevin Phillips who was doing the review of
2 those two particular briefs?

3 **MR. McCONNERY:** I would say I was but that
4 he also read them.

5 **MS. SIMMS:** Okay. Well, maybe we'll look
6 and see if there might be documents that will refresh your
7 memory on that.

8 The third brief is with respect to Bishop
9 LaRocque?

10 **MR. McCONNERY:** Yes.

11 **MS. SIMMS:** And, again, the complainant was
12 Ron Leroux?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** And the allegations in that
15 brief were with respect to alleged sexual abuse in 1960 at
16 a gathering at a cottage on Cameron's Point?

17 **MR. McCONNERY:** Yes.

18 **MS. SIMMS:** Do you have a recollection of
19 reviewing that brief?

20 **MR. McCONNERY:** I do.

21 **MS. SIMMS:** Okay.

22 And the fourth brief with respect to Gary
23 Osler was a complaint again by Ron Leroux, and this was
24 with respect to an incident in the 1980s at St. Andrew's
25 Parish House where Ron Leroux alleged he was

1 inappropriately grabbed by Gary Ostler.

2 Do you recall that?

3 **MR. McCONNERY:** I do know I reviewed the
4 Gary Ostler brief. I don't recall the particulars.

5 **MS. SIMMS:** Okay.

6 And we've already mentioned there was a
7 brief with respect to a complaint made by C-15 against
8 Kevin Maloney?

9 **MR. McCONNERY:** Yes.

10 **MS. SIMMS:** And the allegation was with
11 respect to abuse at St. Joseph's Training School in the
12 1970s?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** So you recall that brief as
15 well?

16 **MR. McCONNERY:** Yes. I seem to recall that
17 that was one that Mr. Phillips did. I reviewed it. I
18 recall an effort to try to get some records from St.
19 Joseph's Training School. So I do have some vague
20 recollection of that.

21 **MS. SIMMS:** And you, of course, recollect
22 the conspiracy brief. We've discussed that.

23 **MR. McCONNERY:** Yes.

24 **MS. SIMMS:** And you had -- you've already
25 expressed to us your understanding of the allegation that

1 you were looking at there?

2 **MR. McCONNERY:** Yes.

3 **MS. SIMMS:** We'll go into a further review
4 of your analysis of those briefs this afternoon, but I want
5 to turn you now to the meeting on July 10th when you're
6 discussing these allegations.

7 **MR. McCONNERY:** Okay.

8 **MS. SIMMS:** Okay? So if I could refer you
9 to Document Number 130311?

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **THE COMMISSIONER:** Thank you.

12 Exhibit Number 3050 ---

13 **MS. SIMMS:** These are notes of yours, Mr.
14 McConnery, from July 10th, 2001?

15 **MR. McCONNERY:** Yes.

16 **THE COMMISSIONER:** Thank you.

17 **MS. SIMMS:** And ---

18 **THE COMMISSIONER:** Exhibit 3050.

19 **MS. SIMMS:** Exhibit 3050 and should be
20 marked subject to publication ban.

21 **THE COMMISSIONER:** Thank you.

22 **--- EXHIBIT NO./PIÈCE NO. P-3050:**

23 (130311) - Notes of Lorne McConnery re: Pat
24 Hall's views dated July 10, 2001

25 **MS. SIMMS:** So, Mr. McConnery, the first two

1 pages of this document appear to be rough notes, and then
2 on the third page, which is Bates page 940, you appear to
3 have prepared a summary of your meeting in a bit more
4 detail?

5 MR. McCONNERY: Yes.

6 MS. SIMMS: Okay. And have you had a chance
7 to review these notes recently?

8 MR. McCONNERY: I actually read over the
9 notes that start at 940. I don't think I looked at the
10 rough notes.

11 MS. SIMMS: Okay. Well, let's start there.

12 MR. McCONNERY: Okay.

13 MS. SIMMS: The notes that start at 940. So
14 these are your notes from the meeting, and you note -- is
15 it Mr. Phillips and yourself that both met with Inspector
16 Hall?

17 MR. McCONNERY: Yes.

18 MS. SIMMS: Okay. And it seems that the
19 first topic of discussion is with respect to Garry Guzzo?

20 MR. McCONNERY: Yes.

21 MR. SIMMS: Okay. You mentioned earlier
22 that you were familiar with that issue early on in your
23 involvement in this case?

24 MR. McCONNERY: What issue?

25 MS. SIMMS: That concerns had been raised by

1 Mr. Guzzo ---

2 MR. McCONNERY: Oh. Yes.

3 MS. SIMMS: --- publicly?

4 MR. McCONNERY: Yes. Yes.

5 MS. SIMMS: Okay. And is this where you
6 found out about Mr. Guzzo's involvement, or had you been
7 aware of it previously?

8 MR. McCONNERY: No, I think I was aware of
9 it previously. When you go back to May, when I talked to
10 Pat Hall, I think he told me about a member of the
11 Provincial Legislature who was -- had some overriding
12 interest in this.

13 MS. SIMMS: Okay. So you note having a long
14 discussion about contents of a letter, and I don't have
15 that letter here to show you, but the issue raised is an
16 allegation that there were videotapes in existence ---

17 MR. McCONNERY: Yes.

18 MS. SIMMS: --- and that someone was in
19 possession of those videotapes, and that they were
20 potentially relevant to criminal acts, or alleged criminal
21 acts?

22 MR. McCONNERY: Yes.

23 MS. SIMMS: Do you recall that being the
24 substance?

25 MR. McCONNERY: Yes.

1 **MS. SIMMS:** Okay. And you note a long
2 discussion, and you note that you were urging Inspector
3 Hall to, you say, "Get onto Guzzo about this allegation".

4 **MR. McCONNERY:** Yes.

5 **MS. SIMMS:** Can you explain that?

6 **MR. McCONNERY:** I think, whether there had
7 been something in the press or a letter by Mr. Guzzo, or
8 some communication sent to the OPP, he had indicated that
9 he had been informed by a citizens group about the
10 possession of videos.

11 I knew about the allegation that videos had
12 been located and had been destroyed by the OPP.

13 **MS. SIMMS:** M'hm.

14 **MR. McCONNERY:** My understanding was that
15 Mr. Guzzo was saying that a citizens group had, at
16 considerable expense, obtained copies of those videos, and
17 I was urging Officer Hall to do whatever had to be done to
18 get those so that we could examine the contents, and I -- I
19 make my comment there about Inspector Hall's reply, and I
20 probably learned to understand later that Inspector Hall
21 felt that, when he would go back and confront Guzzo with
22 something, that nothing happened.

23 **MS. SIMMS:** So your comment there was at the
24 time it was your impression that Hall seemed nonchalant
25 about this issue? Is that ---

1 **MR. McCONNERY:** That's precisely what I
2 wrote.

3 **MS. SIMMS:** Okay. And you were not aware,
4 at the time that you wrote this, of the history of
5 interactions between the OPP and Mr. Guzzo preceding this?
6 Is that what your evidence was?

7 **MR. McCONNERY:** I wouldn't say I had no
8 information. I think I had some information.

9 I believe what I said was back as early as
10 May, when I had a discussion with Officer Hall at Long
11 Sault -- I think it was early May ---

12 **MS. SIMMS:** M'hm.

13 **MR. McCONNERY:** --- he gave me an overview.
14 He talked about a lot of things, and I think among them he
15 talked about Garry Guzzo.

16 **MS. SIMMS:** Okay. So regardless of the
17 history, you felt it was extremely important that Inspector
18 Hall get on this issue as soon as possible?

19 **MR. McCONNERY:** Well, I understood the
20 videos that Mr. Guzzo was describing would potentially show
21 various parties involved in sexual acts with certain --
22 possibly youths even.

23 **MS. SIMMS:** M'hm.

24 **MR. McCONNERY:** And so certainly obtaining
25 those would be -- could be very relevant to all that we

1 were doing.

2 **MS. SIMMS:** Okay. The next issue that you
3 note being discussed was a follow-up request that you had
4 with respect to the Maloney brief and the LaRocque brief.
5 Is that correct?

6 **MR. McCONNERY:** Yes.

7 **MS. SIMMS:** And in particular -- I think
8 it's in your rough notes and I think you just alluded to
9 it -- with respect to the allegation against Kevin Maloney
10 related to St. Joseph's Training School in Alfred?

11 **MR. McCONNERY:** Yes.

12 **MS. SIMMS:** Okay. And is it your
13 recollection that it was Maloney's position that he'd never
14 been there? Is that ---

15 **MR. McCONNERY:** That's my recall, yes.

16 **MS. SIMMS:** Okay. And so the follow-up that
17 you're requesting on your note is to obtain records from
18 St. Joseph's ---

19 **MR. McCONNERY:** M'hm.

20 **MS. SIMMS:** --- to confirm or disprove that?

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** Okay. And that -- as far as you
23 knew, that had not yet been done by the investigative team?

24 **MR. McCONNERY:** Well, that's right, and as
25 my note indicates, Officer Hall seemed to be saying to me,

1 "Well, I think they're in the possession of the Crown. Why
2 don't we get them," meaning in the possession of Mr.
3 Pelletier.

4 **MS. SIMMS:** Okay. So these weren't steps
5 -- from your conversation, these weren't documents that he
6 had previously reviewed in his investigation?

7 **MR. McCONNERY:** That's correct. That's
8 correct. My impression was Project Truth officers had not
9 reviewed the Alfred records ---

10 **MS. SIMMS:** Okay.

11 **MR. McCONNERY:** --- the St. Jo's records.

12 **MS. SIMMS:** And the follow-up with respect
13 to the allegations with respect to Bishop LaRocque, I don't
14 know if it's noted in particular here, but do you recall
15 that the follow-up was related to the Bishop's attendance
16 at a conference on the last weekend of August in 1993?

17 **MR. McCONNERY:** Yes, I do.

18 **MS. SIMMS:** Okay. So this issue was part of
19 your analysis of the conspiracy brief?

20 **MR. McCONNERY:** Yes, it was.

21 **MS. SIMMS:** Is that correct?

22 **MR. McCONNERY:** Yes.

23 **MS. SIMMS:** And you were looking at the
24 issue of the alleged VIP meeting that Ron Leroux had spoken
25 of?

1 **MR. McCONNERY:** The VIP meeting?

2 **MS. SIMMS:** The meeting ---

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** --- that you just mentioned?

5 **MR. McCONNERY:** Yes, the one at Ken Seguin's
6 or Malcolm MacDonald's cottage.

7 **MS. SIMMS:** Okay.

8 **MR. McCONNERY:** Yes.

9 **MS. SIMMS:** All right.

10 So again, I take it you've noted from your
11 review that there was an indication that the Bishop was, on
12 the last weekend of August, elsewhere attending a
13 conference? Is that ---

14 **MR. McCONNERY:** Yes. I think that came from
15 either his statement or another member of the clergy.

16 **MS. SIMMS:** Okay. And again, you're asking
17 Inspector Hall to follow up to ---

18 **MR. McCONNERY:** Yes.

19 **MS. SIMMS:** --- determine if that was the
20 case or not?

21 **MR. McCONNERY:** Yes, I was.

22 **MS. SIMMS:** Okay. And you do, again, make a
23 reference about an impression you had of Inspector Hall
24 seeming disinterested in following up? Is that ---

25 **MR. McCONNERY:** Can you -- can you point

1 that one out to me?

2 MS. SIMMS: We're on the third paragraph.

3 THE COMMISSIONER: The next page of -- on
4 the screen.

5 MS. SIMMS: Sorry. I was still referring to
6 Bates page 940.

7 MR. McCONNERY: Okay.

8 MS. SIMMS: So it starts -- the page starts
9 with "July 10th, 2001" ---

10 MR. McCONNERY: Yes.

11 MS. SIMMS: --- and the third paragraph
12 where you're discussing some follow-up. Perhaps you were
13 just referring to the Alfred records there?

14 MR. McCONNERY: I think that I was just
15 referring to the follow-up regarding Father Maloney.

16 MS. SIMMS: Okay.

17 MR. McCONNERY: My recollection is there was
18 an attempt to follow up on Bishop LaRocque's attendance at
19 a conference in Ottawa.

20 MS. SIMMS: Yes.

21 And do you recall if that was after your
22 request to Inspector Hall? Well, we can come to that.

23 MR. McCONNERY: I think it was, but ---

24 MS. SIMMS: Mr. McConnery, then your
25 conversation moves on to the police views of reasonable and

1 probable grounds.

2 **MR. McCONNERY:** Yes.

3 **MS. SIMMS:** Okay. So do you want to just
4 explain to us how you presented your questions to Inspector
5 Hall and his response?

6 **THE COMMISSIONER:** First of all, do you have
7 any independent recollection of that discussion?

8 **MR. McCONNERY:** I do.

9 **THE COMMISSIONER:** Okay.

10 **MR. McCONNERY:** I do, because -- and I'm
11 also assisted by this note, but quite frankly, I think my
12 intention was -- at a meeting, was to put quite openly to
13 Officer Hall, "Well, what's your view on RPG?"

14 **MS. SIMMS:** M'hm.

15 **MR. McCONNERY:** And, you know, I'm assisted
16 by this comment, because I attempted to write down
17 precisely what his words were.

18 Let me see if I -- I don't know if I can get
19 it -- yes, I did it in my rough notes and then I
20 incorporated it into the subsequent memo, and it was not an
21 odd expression, but it was an expression I remembered; "I
22 would never put my hand on the Bible."

23 **MS. SIMMS:** Sorry; do you want to
24 just -- what was -- let's back up a moment.

25 So you had asked Inspector Hall about his

1 impression with respect to reasonable and probable
2 grounds ---

3 MR. McCONNERY: Yes.

4 MS. SIMMS: --- on each of these briefs?

5 MR. McCONNERY: Yes.

6 MS. SIMMS: Okay.

7 MR. McCONNERY: We talked about them
8 generally ---

9 MS. SIMMS: Okay.

10 MR. McCONNERY: --- and what I recall
11 is -- I recall now, and I'm assisted by these notes, but I
12 recall specifically Officer Hall saying, with respect to
13 matters that we substantially based on the allegations of
14 Ron Leroux, "I would never put my hand on the Bible and
15 swear to anything based on what Mr. Leroux told me." And
16 I think he went further to say something like, "And I would
17 never ask any of my officers to do it."

18 MS. SIMMS: Okay.

19 MR. McCONNERY: A very strong view about Ron
20 Leroux.

21 MS. SIMMS: And so it was quite clear to you
22 then what his position was with respect to reasonable and
23 probable grounds on any allegation based solely on Ron
24 Leroux's statements?

25 MR. McCONNERY: Yes.

1 **MS. SIMMS:** And out of the briefs you were
2 reviewing, that would apply to four of the briefs that you
3 were reviewing; is that fair to say, with respect to sexual
4 assault allegations made by Ron Leroux?

5 **MR. McCONNERY:** Four of them? I'm not sure
6 now. Certainly in respect to Father -- Bishop LaRocque ---

7 **MS. SIMMS:** M'hm.

8 **MR. McCONNERY:** --- Father Gary Ostler and -
9 --

10 **MS. SIMMS:** You can't recall the Cameron and
11 MacDonald briefs?

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** Okay. And it was your view that
14 that applied as well to his views on reasonable and
15 probable grounds in the conspiracy allegations?

16 **MR. McCONNERY:** Yes, absolutely.

17 **MS. SIMMS:** Okay. So this is the situation
18 that you were discussing earlier where you are undertaking
19 a review of these briefs, and it's quite clear to you that
20 the officer, the investigating officer, does not
21 subjectively have reasonable and probable grounds.

22 **MR. McCONNERY:** Yes.

23 **MS. SIMMS:** Is that fair to say?

24 **MR. McCONNERY:** That's right.

25 **MS. SIMMS:** So did this ---

1 **THE COMMISSIONER:** It seems you had a little
2 waltz at one point about why you were asking him for his
3 views on RPG. Can you tell us a little bit about that or
4 is it ---

5 **MR. McCONNERY:** Well, I do recall he was
6 wondering why, and I don't know; maybe it -- maybe, sir, it
7 was because he thought that if he said no RPG, I would say
8 "Then here are your briefs back".

9 **THE COMMISSIONER:** Right.

10 **MR. McCONNERY:** You know, there's nothing
11 here for me to assess. But I tried to explain to him --
12 and may I read over the note?

13 **THE COMMISSIONER:** Sure. Sure.

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

15 **MR. McCONNERY:** Yes, it does help me a
16 little bit to review that note, because he said "Well, it's
17 unusual for the Crown to want to know my position."

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

19 **MR. McCONNERY:** Like, I don't -- I don't
20 agree with that.

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

22 **MR. McCONNERY:** We do this frequently, but
23 it's not an everyday occurrence that we review something,
24 but more likely the police will come in and say "Here's the
25 investigation. What do you think? What are the charges?"

1 And, you know, the presumption is that the officers have
2 reasonable and probable grounds. They want some advice as
3 to a charge.

4 But this was a situation where I was being
5 asked to give an opinion and I was being directed by Murray
6 Segal "Make sure you know what your assignment is", and my
7 assignment was to look at the question of reasonable and
8 probable grounds.

9 So a) start by finding whether or not your
10 informant, if there was to be an informant, believed he had
11 reasonable and probable grounds, which means he has a
12 subjective belief, as well as the object of grounds to
13 merit the charge.

14 And so I just put it to him just like that
15 and he was a little taken aback, said "Why are you asking
16 me that?" And we discussed it. I said "You know, I'm not
17 doing prospect of conviction. I'm trying to analyze the
18 briefs with respect to reasonable and probable grounds, see
19 if there's any advice I can give you, and if you're telling
20 me you don't feel the officers and yourself have reasonable
21 and probable grounds, I might express a view as to whether
22 or not I think that's a reasonable position." So that's
23 what I tried to explain.

24 And what he said to me was he hadn't had
25 that kind of a discussion before with the Crown.

1 **MS. SIMMS:** So it is in your notes as well
2 that you discuss that in your view an analysis of
3 reasonable prospect of conviction was premature if the
4 police view was that there were no reasonable and probable
5 grounds. Is that ---

6 **MR. McCONNERY:** Well, you don't do a
7 reasonable prospect of conviction if there's no R&PG.

8 **MS. SIMMS:** Right.

9 And that was -- was that a problem? Was
10 there any concern about it expressed by Inspector Hall or -
11 --

12 **MR. McCONNERY:** No.

13 **MS. SIMMS:** --- were you on the same page?

14 **MR. McCONNERY:** No, no, I think by the end
15 of this discussion we were sort of on the same page.

16 **MS. SIMMS:** Okay.

17 **MR. McCONNERY:** He knew what I was trying to
18 do. He knew why I was doing it. But I did not want to
19 talk about a prospect of conviction when the police are
20 saying "But we don't think we should be laying the charge."

21 **MS. SIMMS:** So in terms of having such ---

22 **MR. McCONNERY:** And you know what the
23 Crown's concern is, am I then telling him, when he has no
24 R&PG, to lay a charge because I think he has a prospect of
25 conviction of a reasonable ---

1 MS. SIMMS: So your ---

2 MR. McCONNERY: Sorry, I don't do that.

3 MS. SIMMS: Okay. So your concern was that
4 if you were to undertake that analysis and if you were to
5 give the opinion that there was a reasonable prospect of
6 conviction, then you'd put the policeman position where
7 they felt they should lay a charge without subjective
8 belief. Is that the ---

9 MR. McCONNERY: I would think an officer
10 would interpret what I am telling him to do is that I'm
11 being -- I'm directing him to lay charges, and I don't do
12 that. I think it's inappropriate for a Crown to do that.

13 MS. SIMMS: So how did you see what your
14 analysis was? You've had a very clear statement expressed
15 to you of a very strong opinion on reasonable and probable
16 grounds. So moving forward from this point, did this
17 affect the steps you took to analyze these briefs and ---

18 MR. McCONNERY: What date was this? This
19 was July 10th?

20 MS. SIMMS: Yes.

21 MR. McCONNERY: You know, I think we
22 continued to try -- there was information missing.

23 MS. SIMMS: Yes.

24 MR. McCONNERY: And there were associated
25 briefs which I was interested in looking at.

1 **MS. SIMMS:** M'hm.

2 **MR. McCONNERY:** And frequently with respect
3 to the Crown-police relationship, the police come in and
4 give you what they think is relevant, and as you read it
5 you realize there may be something the police don't think
6 is relevant, but you know it could impact and it could
7 impact on RPC, it could impact on RPG.

8 And we were very concerned that not only did
9 we have everything the police felt was reasonable -- or
10 appropriate, rather, we wanted to have everything that
11 touched on the issues.

12 So there were all kinds of briefs we read
13 that really didn't assist us, but we felt they touched.

14 For instance, with respect to Ken Seguin,
15 there was a brief that involved the death of a youth some
16 years later.

17 **THE COMMISSIONER:** Before?

18 **MR. McCONNERY:** Yes, some years earlier.

19 And I wanted to review it. And I did get
20 that; I reviewed it. I don't think it helped me, but it
21 told me a little bit more about Ken Seguin.

22 Now, remember that Ken Seguin is long since
23 deceased when I'm involved.

24 So I think we -- Kevin Phillips and I tried
25 to get as much information as we could.

1 **MS. SIMMS:** And that continued following
2 this conversation?

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** So you still saw your role as
5 reviewing all the information you could and ---

6 **MR. McCONNERY:** Right.

7 **MS. SIMMS:** Okay.

8 **MR. McCONNERY:** And for instance, we asked
9 for the follow-up about what I would refer to as the alibi
10 of Bishop LaRocque. We asked for the follow-up of the
11 records from St. Joseph's. And I'm not sure now, without
12 reading a list, whether or not there was other material we
13 asked for.

14 **MS. SIMMS:** Well, there is actually other --
15 there is other material which we will come to. There's
16 another request that's noted right on the page that we were
17 at, I believe, which was Bates page 942 -- or, sorry, a
18 couple of pages over, 942. Right in the middle there's a
19 heading that says "At This Meeting".

20 **MR. McCONNERY:** That's right. Yes.

21 **MS. SIMMS:** Okay. And you note you're
22 discussing some issues about documents and information
23 being provided?

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** And one of your requests on the

1 third bullet point is you received from Inspector Hall a
2 copy of the 1994 investigation into the alleged agreement
3 not to lay charges, reviewed in 1994 by Peter Griffiths, no
4 charges, and you refer to a letter.

5 MR. McCONNERY: Okay. Yes.

6 MS. SIMMS: Do you see that?

7 MR. McCONNERY: Yes.

8 MS. SIMMS: So is that some of the
9 additional information you received?

10 MR. McCONNERY: Yes.

11 MS. SIMMS: And do you recall reviewing that
12 brief as well?

13 MR. McCONNERY: I would say that I do. I
14 don't have a clear recollection of it now.

15 MS. SIMMS: And it also refers to Perry
16 Dunlop's Will State and accompanying appendices being
17 received. Sorry, Perry Dunlop provided a Will State in
18 April 2000 and just below the note I've referred you to,
19 you note receiving that Will State and the accompanying
20 materials as well on that day.

21 MR. McCONNERY: Yes. Okay.

22 MS. SIMMS: So that formed the subject of
23 your review as well?

24 MR. McCONNERY: Right.

25 MS. SIMMS: Okay. And you felt -- you have

1 a little note at the bottom, Mr. McConnery. Do you want to
2 explain why ---

3 **MR. McCONNERY:** I'm going to stop making all
4 these notes.

5 **MS. SIMMS:** Yes, well ---

6 **MR. McCONNERY:** Sorry.

7 **MS. SIMMS:** Now it's there.

8 **MR. McCONNERY:** It is.

9 **MS. SIMMS:** Do you want to explain here
10 ---

11 **THE COMMISSIONER:** Can you blow it up,
12 please, Madam Clerk, the note at the bottom there so I can
13 see it?

14 **MS. SIMMS:** Again, it's a note about your
15 impressions. And you had -- we went through -- there's a
16 couple of parts where you suggested that it seemed to you
17 that Inspector Hall was nonchalant or disinterested.

18 **MR. McCONNERY:** Yeah.

19 **MS. SIMMS:** And so what was the purpose of
20 this note at the bottom here?

21 **THE COMMISSIONER:** Can you scroll all the
22 way down, Madam Clerk, just to get the last sentence?
23 That's it, okay, fine.

24 **MR. McCONNERY:** I think that -- well, let me
25 put it this way. This note, this memo is after the meeting

1 so it's probably when I'm back in Ottawa.

2 MS. SIMMS: M'hm.

3 MR. McCONNERY: The meeting was, I think,
4 I'm pretty sure it was at Long Sault OPP. So I go back to
5 Ottawa. Now I want to capture that meeting in more than
6 just the form of my rough notes, so I sit down. And I've
7 always said to myself, we're always limited by the words we
8 use and so, you know, I'm saying here, Pat Hall was
9 nonchalant and I thought maybe that's unnecessarily
10 critical of him.

11 MS. SIMMS: M'hm.

12 MR. McCONNERY: And so then at the end of
13 the note I wrote that, you know, in reference to my earlier
14 remarks about Pat Hall, maybe it was exasperation, maybe it
15 was like I'm being fed up -- I'm sorry -- he was expressing
16 he was being fed up with the fact they had done the
17 investigation; they had tendered it to the Crown; they
18 didn't get an opinion; they gave it to us; we spent months
19 on it and then say "Would you please go and do this, would
20 you please go and do that."

21 MS. SIMMS: M'hm.

22 MR. McCONNERY: And at the same time Pat
23 Hall was of the view that there was no RPG. That's what I
24 think now. That's what I think my note was conveying.

25 MS. SIMMS: Okay. And there had as well --

1 just in terms of some things that may have been
2 frustrating, there had been a number of Crowns that had
3 been involved in Project Truth over time; correct?

4 **MR. McCONNERY:** Yes.

5 **MS. SIMMS:** I take it even from your
6 intensive involvement it takes some time to come anew to
7 this kind of situation and get up to speed. Is that right?

8 **MR. McCONNERY:** Yes, no doubt. And then,
9 you know, you're looking at whether or not you should be
10 reviewing what other Crowns did or said or their notes.

11 So there's almost a never ending circle of
12 information you can look at about things. I think he was
13 exasperated by that is I think what my note is trying to
14 capture.

15 **MS. SIMMS:** Okay. But to be clear, we'd
16 referenced a letter provided by Ms. Hallett where she said
17 she was not going to provide you with her views of these
18 briefs and you didn't ever receive any indication from her
19 what her opinion was?

20 **MR. McCONNERY:** No, and in fact she had told
21 me earlier she would give me those opinions and then based
22 on advice she wanted -- she was taking herself out of play.
23 So I never got those opinions, I never asked her for them.

24 **MS. SIMMS:** Just before we leave these
25 notes, you have reference just on the previous page, which

1 is Bates page 941. You have what appears to be a sort of
2 addendum note to your meeting.

3 **MR. McCONNERY:** Another note, yes.

4 **MS. SIMMS:** Yes. And that's referring to
5 information you provided to Pat Hall with respect to having
6 a second opinion on -- or determining that an outsider
7 should be retained to review the files.

8 **MR. McCONNERY:** Yes.

9 **MS. SIMMS:** Okay. So this is something that
10 had come to your attention prior to this meeting?

11 **MR. McCONNERY:** Yes, I have.

12 **MS. SIMMS:** And was this -- you indicated
13 that the Ministry had determined that an outsider should be
14 retained to review the file. So this was advice you had
15 received from the Ministry on this matter?

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** So what you advise Mr. Hall is
18 that somebody would be retained to review the files, in
19 light of the allegation against Crown Attorney, Murray
20 MacDonald?

21 **MR. McCONNERY:** Correct.

22 **MS. SIMMS:** And that would be with respect
23 to the allegations of conspiracy?

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** And you also advised Inspector

1 Hall that since the review which a great -- sorry, since
2 the review, within a great measure, centre on the
3 statements of Ron Leroux that therefore the review would
4 also relate to the other five outstanding briefs. Is that
5 correct?

6 **MR. McCONNERY:** Yes.

7 **MS. SIMMS:** Okay. And that is something we
8 discussed before that there is an interrelation among these
9 briefs that it was necessary to look at them altogether
10 rather than piecemeal; is that your ---

11 **MR. McCONNERY:** I'm not sure it's so much an
12 interrelation -- yes -- no, you're right. But I guess what
13 I'm saying is, you know, I've looked at Ron Leroux and this
14 and, you know, I'm a little antsy about his credibility.
15 And I take that into account on the other five isolated
16 allegations of sexual assault.

17 **MS. SIMMS:** Okay.

18 **MR. McCONNERY:** I didn't try to excise what
19 he said in the one and -- if that makes any sense. I
20 wanted to look at everything about Ron Leroux on all of the
21 briefs. So, yes, I guess my answer in the short is yes, I
22 did.

23 **MS. SIMMS:** All right.

24 And you note that Inspector Hall seemed to
25 think this was appropriate?

1 **MR. McCONNERY:** Yes.

2 **MS. SIMMS:** Reasonable and appropriate?

3 **MR. McCONNERY:** Yeah.

4 **MS. SIMMS:** And it was your view this was
5 reasonable and appropriate as well?

6 **MR. McCONNERY:** Well, I knew Murray
7 MacDonald.

8 **MS. SIMMS:** Okay.

9 **MR. McCONNERY:** So I was being asked to
10 review something where I knew somebody personally, although
11 I did not know him well.

12 **MS. SIMMS:** M'hm.

13 **MR. McCONNERY:** I had probably spoken to him
14 three times. And I can tell you that it was a senior
15 Ministry person who said, "You know, as a back-up, we're
16 going to have an outsider look at it as well." I felt that
17 was most appropriate.

18 **MS. SIMMS:** And when you said you knew
19 Murray MacDonald, was that in relation to your time spent
20 at the Ottawa Crown's office?

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** Okay.

23 **MR. McCONNERY:** I did a homicide in
24 Cornwall. Murray MacDonald was an Assistant Crown Attorney
25 there at that time.

1 **MS. SIMMS:** Okay. And I understand that you
2 completed your review of the briefs before you sought the
3 second opinion; correct? Your notes go on with respect to
4 reviewing the brief over the month of July.

5 **MR. McCONNERY:** I would have thought we were
6 doing it at the same time. At some point I thought there
7 was some overlap.

8 **MS. SIMMS:** Okay.

9 **MR. McCONNERY:** But if you can ---

10 **MS. SIMMS:** That's fine.

11 So I'd like to refer you just briefly, Mr.
12 McConnery, to a letter you wrote following this meeting,
13 and that is Exhibit 2830 and it's Document Number 703537.

14 **THE COMMISSIONER:** It's the last exhibit in
15 that book.

16 **MS. SIMMS:** This appears, Mr. McConnery, to
17 be pretty much a follow-up letter to your meeting the day
18 before?

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** So it covers issues that we
21 discussed just now?

22 **MR. McCONNERY:** Yes.

23 **MS. SIMMS:** And it lays out in some level of
24 detail your concerns with respect to the allegations or the
25 issues raised by Mr. Guzzo.

1 **MR. McCONNERY:** Correct.

2 **MS. SIMMS:** So this is the substance of what
3 your concern was?

4 **MR. McCONNERY:** Yes.

5 **MS. SIMMS:** And you -- I take it you're
6 writing this letter to ensure that it's clear to Inspector
7 Hall how concerned you are?

8 **MR. McCONNERY:** Yes, that's true.

9 **MS. SIMMS:** And that you would like to see
10 some follow-up on the matter?

11 **MR. McCONNERY:** Yes.

12 **MS. SIMMS:** And you also reference follow-up
13 on the two other issues we discussed with respect to the
14 allegations against Bishop LaRocque and Father Kevin
15 Maloney.

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** With respect to those two
18 follow-up issues, I take it you -- they jumped out at you
19 as being significant issues that could have a real
20 influence on your opinion letter. Is that fair?

21 **MR. McCONNERY:** You know, I was there, you
22 know, with respect to my opinion, but I could only be
23 criticized for not even looking at Bishop LaRocque's
24 alleged alibi. So why would I not want that done? I mean,
25 there's notice on an investigator and on a prosecutor to

1 try to be thorough.

2 MS. SIMMS: M'hm.

3 MR. McCONNERY: And certainly with respect
4 to Father Maloney, which I think is C-15's, the complainant
5 ---

6 MS. SIMMS: M'hm.

7 MR. McCONNERY: --- that one I certainly
8 wanted to see, you know. But Bishop LaRocque, that matter,
9 I just felt it was imperative -- the man gave an alibi. It
10 was imperative that there be follow-up to whatever extent
11 there could be. But I knew where I was with respect to Ron
12 Leroux's complaints and Ron Leroux's complaints in
13 particular about Bishop LaRocque.

14 MS. SIMMS: And that is as of July 11th or is
15 that -- did you form that opinion prior to your meeting
16 with ---

17 MR. McCONNERY: I think I had that opinion
18 prior to July 11th but I still felt that this should be done
19 and that it was important.

20 MS. SIMMS: I'm going to ask you to look at
21 the letter you received in response, which is Exhibit 2838,
22 Document Number 702453.

23 (SHORT PAUSE/COURTE PAUSE)

24 MS. SIMMS: So, Mr. McConnery, this is a
25 letter to yourself from Inspector Hall dated July 13th,

1 2001?

2 MR. McCONNERY: Yes.

3 MS. SIMMS: And with respect to the follow-
4 up matters, he's providing you with assurance that they
5 will be followed up?

6 MR. McCONNERY: Yes.

7 MS. SIMMS: And then the letter goes on to
8 discuss in some detail an issue that he's drawing to your
9 attention with respect to four binders that Perry Dunlop
10 delivered to the Ministry of the Attorney General on or
11 about April 7th, 1997. And I think we alluded to that issue
12 a little bit earlier.

13 Do you recall this issue being raised by
14 Inspector Hall with you, this letter?

15 MR. McCONNERY: Oh yes, yes.

16 MS. SIMMS: Was it a subject of discussion
17 prior to this letter, or is this your first time you heard
18 of this problem?

19 MR. McCONNERY: I take it since you're not
20 giving me any notes I've got -- that I hadn't written any
21 note on it. So I think this is probably where I am getting
22 my initial information.

23 MS. SIMMS: Okay. And I take it you had
24 subsequent discussions with Inspector Hall on the issue?

25 MR. McCONNERY: Inspector Hall, Jim Stewart,

1 yes.

2 **MS. SIMMS:** Okay. So the concern -- he is
3 raising with you a concern that he has that documents were
4 delivered to the Ministry of the Attorney General, among
5 others, and then they were not forwarded by the Ministry of
6 the Attorney General to his investigation. Is that the
7 substance of it?

8 **MR. McCONNERY:** Yes.

9 **MS. SIMMS:** And that they were not -- they -
10 - he was not able to -- he was not satisfied with any
11 explanation as to what had actually happened to those
12 particular binders. Is that fair?

13 **MR. McCONNERY:** It seemed to me that, as I
14 recall it now, there was something -- some kind of an
15 acknowledgement that they had been delivered to the
16 Ministry.

17 **MS. SIMMS:** Yes.

18 **THE COMMISSIONER:** A receipt?

19 **MR. McCONNERY:** Yes.

20 **THE COMMISSIONER:** The Dunlops had a
21 receipt.

22 **MR. McCONNERY:** Okay. But that there was
23 nobody in the Ministry who ever seemed to be able to recall
24 having them.

25 Mr. Stewart and I talked about it and he

1 talked about whether or not they had ever come to the
2 office of the Regional Director of Crown Operations for the
3 East Region and told me they had in fact searched their
4 office looking for them.

5 I don't think Jim Stewart -- you'll have to
6 help me. I don't know if he ---

7 **MS. SIMMS:** You actually do have a note with
8 respect to -- it's a very brief note and it might not help
9 you with respect to your conversation with Jim Stewart. So
10 we'll come to that.

11 **MR. McCONNERY:** Yeah. What I was going to
12 say is I don't know who the Regional Director was at the
13 time.

14 **MS. SIMMS:** At the time the boxes were
15 delivered in '97?

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** Okay. In any case, in this
18 letter it appears that Inspector Hall was suggesting to you
19 that perhaps an independent investigation should be done,
20 and then in conclusion he says:

21 "I consider this allegation as part of
22 the alleged conspiracy against Crown
23 Attorney Murray MacDonald and request
24 you address this matter in your
25 review."

1 Do you see that?

2 **MR. McCONNERY:** Yes, I do.

3 **MS. SIMMS:** Okay. And did you agree that
4 this was -- did you see this as part of the alleged
5 conspiracy that you had been asked to review?

6 **MR. McCONNERY:** No. I mean, first of all,
7 it's not mentioned in the brief that I was given and I was
8 never aware of any information that Crown Attorney Murray
9 MacDonald ever had anything to do with those briefs. So I
10 ---

11 **MS. SIMMS:** Okay.

12 **THE COMMISSIONER:** No, but it was -- do you
13 realize that it was part of the allegations in the
14 community is that, look, after all this time Mrs. Dunlop
15 comes up with the receipt and says, "Look, the Attorney
16 General doesn't even know where the documents are". In the
17 letter, Mr. -- Detective Inspector Hall, he put it very
18 well. He said that the media and everybody else, it gives
19 the appearance the Ministry of the Attorney General was
20 keeping the Dunlop material from the police.

21 So did you not know that those kinds of
22 rumours and things were circulating and people held that
23 view; the last page, third paragraph from the top -- from
24 the bottom?

25 **MR. McCONNERY:** Maybe I didn't see it as

1 important an issue as Detective Inspector Hall did.

2 The bottom line was the information that was
3 brought to the Ministry was also brought to another police
4 agency, and I believe the Dunlops' material was the same
5 material, and I had that and I reviewed that.

6 So something appears to have been reported
7 to be misplaced, lost, by the Ministry. I spoke to Mr.
8 Stewart about it. He said to me, basically, "We have
9 searched high and low". I didn't see it as a conspiracy.
10 I guess, as much as anything, it may have been sloppiness.
11 It may have been many things, but I didn't jump to an
12 inference that -- and it happened in '97. I was reviewing
13 a brief about a very precise allegation in '93, I think it
14 was. I didn't make this connection that he is making in
15 the letter.

16 **MS. SIMMS:** But you had concerned yourself
17 with the concerns raised by Guzzo which were, in a sense,
18 different than the precise conspiracy allegation that you
19 were investigating; correct?

20 **MR. McCONNERY:** Well, Mr. Guzzo raised a lot
21 of concerns, yes. He was constantly raising concerns.

22 **MS. SIMMS:** Well, the one we just discussed?

23 **MR. McCONNERY:** Sure, videotapes.

24 **MS. SIMMS:** But this, in your view, fell
25 outside of what you were assigned to review. Is that fair?

1 **MR. McCONNERY:** You know, if I dropped the
2 ball on this one in that regard, maybe I did.

3 **MS. SIMMS:** Well ---

4 **MR. McCONNERY:** I did not see it as part of
5 the conspiracy allegation.

6 **MS. SIMMS:** And you mentioned speaking to
7 Mr. Stewart on the matter and you also have a note with
8 respect to speaking to Mr. Segal on the matter. That might
9 have slipped your mind, so I'm going to ask you to refer to
10 your note on that, and it's Document Number 130317.

11 **THE COMMISSIONER:** Which is Exhibit -- oh,
12 it's a new document?

13 **MS. SIMMS:** A new document.

14 **THE COMMISSIONER:** Thank you.

15 Exhibit 3051 is notes of Crown McConnery
16 dated July 17th.

17 What year would that be, 2000 and ---

18 **MS. SIMMS:** Two-thousand-and-one (2001).

19 **THE COMMISSIONER:** Two-thousand-and-one
20 (2001). Exhibit 3051.

21 **--- EXHIBIT NO./PIÈCE NO. P-3051:**

22 (130317) - Notes of Lorne McConnery dated
23 July 17, 2001

24 **(SHORT PAUSE/COURTE PAUSE)**

25 **MS. SIMMS:** So you've had a chance to review

1 that note, Mr. McConnery?

2 **MR. McCONNERY:** Yes.

3 **MS. SIMMS:** Okay. So the top of the page,
4 the second bullet point refers to receiving a letter from
5 Inspector Hall and that Jim Stewart faxed same to Murray
6 Segal; correct?

7 **MR. McCONNERY:** Yes.

8 **MS. SIMMS:** And do you think that the letter
9 we're referring to is this letter about the boxes or the
10 binders, I should say? And I say that because you
11 subsequently have a telephone call to Murray Segal on that
12 issue.

13 **MR. McCONNERY:** Yes. Yes, I think it is.

14 **MS. SIMMS:** Okay. And you noted your
15 conversation with Mr. Stewart on the issue and it appears
16 that you did see him that day because you refer to him
17 faxing the letter. And you also have notes of a
18 conversation with Mr. Segal on the issue as well?

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** Okay. And in your conversation
21 with Mr. Segal, it seems that he advises you that a
22 thorough search was done and he assures you that material
23 received was same as material that was given, with some
24 exceptions, and so that the contents of what was delivered
25 is complete. In the end, the content of what was delivered

1 was provided to the OPP.

2 Do you see that?

3 **MR. McCONNERY:** Yeah, I'm just trying to
4 make out what I've written.

5 **MS. SIMMS:** Sometimes, it's easier on the
6 screen, Mr. McConnery.

7 **MR. McCONNERY:** With a few exceptions, okay.

8 **MS. SIMMS:** So -- and you conclude -- well,
9 your note concludes that the fact that AG boxes lost has
10 not led to anything, in fact, being lost.

11 So when you were explaining to us your
12 understanding of a search being done and what documents had
13 been delivered where, you, yourself, didn't investigate
14 this issue personally.

15 **MR. McCONNERY:** No.

16 **MS. SIMMS:** Is that fair?

17 **MR. McCONNERY:** No, I didn't.

18 **MS. SIMMS:** So that information may have
19 been provided to you by Mr. Stewart and Mr. Segal?

20 **MR. McCONNERY:** I recall specifically Mr.
21 Stewart talking about the search of the Ottawa Regional
22 Director's office and Mr. Segal just telling me that --
23 that 720 Bay -- as we refer to their offices -- were
24 searched.

25 **MS. SIMMS:** Okay. So do you recall taking

1 any steps further than what's noted here on July 17th on
2 this issue and I haven't seen any further notes, Mr.
3 McConnery, I stand to be corrected, but I know you write --
4 and I can take you to a letter you write to Mr. Hall on the
5 issue which has been entered already. It's Exhibit 2813
6 and it's Document Number 732713.

7 **THE COMMISSIONER:** It should be in one of
8 your binders, sir. If you look in the back on the spine of
9 it, you'll get ---

10 **MR. McCONNERY:** Yes, I do. I'm sorry.

11 **THE COMMISSIONER:** So it's 2813.

12 **MR. McCONNERY:** Okay.

13 **MS. SIMMS:** Yes, 2813.

14 **THE COMMISSIONER:** And it's on the screen,
15 sir.

16 **MS. SIMMS:** It's just a very brief letter,
17 Mr. McConnery. You can see it on the screen as well, I'm
18 sure.

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** And it's just a letter from you
21 to Inspector Hall dated August 15th, 2001, and you're
22 referring back to his letter that we just looked at and you
23 say:

24 "Please be advised that I forwarded a
25 copy of your letter to the Regional

1 Director of Crown Operations, Mr. Jim
2 Stewart. I'm advised that your
3 concerns will be addressed by the end
4 of August, 2001."

5 So I just asked you whether you had --
6 having made inquiries of Mr. Stewart and spoken to Mr.
7 Segal whether you, yourself, were involved in any further
8 steps to follow-up on this issue. Do you recall?

9 **MR. McCONNERY:** Yes, and I don't believe I
10 was, except that I -- did I not get a copy of a letter that
11 was subsequently written to Pat Hall?

12 **MS. SIMMS:** It's possible that you did.
13 It's possible that you did.

14 **MR. McCONNERY:** I thought Jim Stewart put --
15 James Stewart put something in writing to Pat Hall about
16 this.

17 **MS. SIMMS:** Yes, and you were copied on that
18 letter?

19 **MR. McCONNERY:** If I wasn't copied, I was
20 given a copy in any event. I'm not sure.

21 **MS. SIMMS:** Perhaps we'll just quickly take
22 you to that letter.

23 **MR. McCONNERY:** Okay.

24 **THE COMMISSIONER:** I take it it's not an
25 exhibit?

1 **MS. SIMMS:** Mr. Commissioner, I think it is
2 an exhibit. I'm just going to check for you.

3 **THE COMMISSIONER:** Okay.

4 **MS. SIMMS:** Maybe Madam Clerk can determine
5 that as well. It's Document Number ---

6 **MR. McCONNERY:** It's the next document,
7 2814, isn't it?

8 **MS. SIMMS:** Well, that's helpful. Thank
9 you, Mr. McConnery.

10 **MR. McCONNERY:** I'll get you through this,
11 counsellor.

12 **MS. SIMMS:** Thank you.

13 **(LAUGHTER/RIRES)**

14 **MS. SIMMS:** So this is a letter dated
15 September 6th, 2001. Is this the -- this is the letter
16 you're referring to obviously ---

17 **MR. McCONNERY:** Yes.

18 **MS. SIMMS:** --- from Mr. Stewart to
19 Inspector Hall. And you're not noted as copied on it, but
20 you've indicated that you did see it around the time that
21 it was sent. Is that correct?

22 **MR. McCONNERY:** I would have thought it was
23 in my notes ---

24 **MS. SIMMS:** Okay.

25 **MR. McCONNERY:** --- in those briefs I had if

1 we can find it.

2 MS. SIMMS: And this is Mr. Stewart's
3 response to the concerns that Inspector Hall raised to you,
4 in regard to you on July 13th, 2001?

5 MR. McCONNERY: Yes.

6 MS. SIMMS: And, again, were you involved in
7 the preparation of this letter or the examination of the
8 circumstances that the letter refers to?

9 MR. McCONNERY: No, I wasn't.

10 MS. SIMMS: Okay. So this was just provided
11 to you for you to be aware of what the Ministry's response
12 was?

13 MR. McCONNERY: Yes.

14 MS. SIMMS: Okay. And were you aware or
15 provided with any further correspondence on this issue that
16 you recall? I believe there was some further
17 correspondence much later in time.

18 MR. McCONNERY: You know, I'm not sure if I
19 saw that correspondence before you showed it to me
20 yesterday. It's a letter in 2004.

21 MS. SIMMS: Yes. So you would have been --
22 you were removed from the situation by then and ---

23 MR. McCONNERY: Yes, absolutely.

24 MS. SIMMS: Okay, Mr. McConnery, just back
25 to your note that we were referring to; Exhibit 3051. I

1 think it's probably still loose, yes.

2 MR. McCONNERY: Oh.

3 MS. SIMMS: You have a lot of binders there.

4 MR. McCONNERY: Three-zero-five-one (3051).

5 What is it? I have it.

6 MS. SIMMS: Okay.

7 And just at the bottom -- and I just wanted
8 to point out that on that same day, you spoke to Inspector
9 Hall and he advised you that he had done the follow-up that
10 you requested regarding the conference ---

11 MR. McCONNERY: Yes.

12 MS. SIMMS: --- that Bishop LaRocque was to
13 be attending?

14 MR. McCONNERY: Yes.

15 MS. SIMMS: Right? And he's advising you of
16 what his ideas are for following up on the concerns raised
17 by Garry Guzzo?

18 MR. McCONNERY: Yes.

19 MS. SIMMS: And he's also -- you also make a
20 further request to him regarding following up on Malcolm
21 MacDonald's trial date, presumably so he can get the
22 transcripts?

23 MR. McCONNERY: Yes.

24 MS. SIMMS: Okay. So he is taking steps on
25 the request that you had made in your meeting of July 10th?

1 **MR. McCONNERY:** Yeah, and I think what the
2 note means is that he would deal with Guzzo -- Mr. Guzzo in
3 writing, but he would go and interview Mr. Chisholm.

4 **MS. SIMMS:** Okay.

5 And if you could look at Document Number
6 130319.

7 **THE COMMISSIONER:** Thank you.

8 Exhibit 3052.

9 **--- EXHIBIT NO./PIÈCE NO. P-3052:**

10 (130319) - Notes of Lorne McConnery dated
11 July 18, 2001

12 **MS. SIMMS:** So, Mr. McConnery, these are
13 further notes from the following day and, again, Inspector
14 Hall's speaking to you and advising you of the status of
15 the follow-up information you requested. Is that right?

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

17 **MS. SIMMS:** So he advises you at this time
18 they had interviewed Bishop Spence regarding the Bishops
19 Conference?

20 **MR. McCONNERY:** Yes.

21 **MS. SIMMS:** And he also confirms for you the
22 -- Malcolm MacDonald's plea date on the absolute -- or on
23 the obstruction of justice charge?

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** And this is what you were

1 referencing about intending to interview Carson Chisholm?

2 **MR. McCONNERY:** Correct.

3 **MS. SIMMS:** Okay.

4 So all of the issues that you had raised
5 with him and the impression it left with you at some point
6 was that he was disinterested in following up. They were
7 followed-up on in the week or so following your meeting.
8 Is that correct?

9 **MR. McCONNERY:** In quite a -- what I felt
10 was quite a timely fashion, yes.

11 **MS. SIMMS:** Okay. So you were satisfied
12 with that?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** And there are -- and including
15 actually speaking to Carson Chisholm, you're aware that was
16 one of the things that Inspector Hall did was speak to
17 Carson Chisholm to see if there were any videotapes in his
18 possession or if he was aware where they might be located,
19 et cetera.

20 **MR. McCONNERY:** I subsequently learned that
21 he or somebody under his direction spoke with Carson
22 Chisholm.

23 **MS. SIMMS:** Okay. So you were satisfied
24 with his follow-up to that issue as well?

25 **MR. McCONNERY:** Yes.

1 **MS. SIMMS:** And were you -- the exhibit
2 we're just looking at also references that he's located the
3 records from St. Joseph's Training School at Bob
4 Pelletier's office?

5 **MR. McCONNERY:** Correct.

6 **MS. SIMMS:** So you were eventually provided
7 with those records as well?

8 **MR. McCONNERY:** Yeah, there was some issue
9 about them being translated. They were French.

10 **MS. SIMMS:** Okay.

11 **MR. McCONNERY:** But it seems to me I got --
12 I got them in French. We looked at them.

13 **MS. SIMMS:** So did you review that or did
14 you have some assistance and reviewed the records that you
15 were provided? Is that ---

16 **MR. McCONNERY:** We did. I don't think we
17 had them all translated. I think we were assisted by
18 somebody who could deal with them.

19 **THE COMMISSIONER:** I think you said Officer
20 Genier was the one who went and picked them up. "Hall to
21 assign Genier whenever he can."

22 **MR. McCONNERY:** Yes. I'm sorry, that's
23 right. They're French, therefore Genier would be assigned
24 to me with Bob Pelletier.

25 **MS. SIMMS:** Okay.

1 **THE COMMISSIONER:** Could I bother you for a
2 health break?

3 **MS. SIMMS:** Certainly.

4 **THE COMMISSIONER:** Thank you. Let's take
5 the afternoon break.

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

8 This hearing will resume at 3:20 p.m.

9 --- Upon recessing at 3:04 p.m./

10 --- L'audience est suspendue à 15h04

11 --- Upon resuming at 3:22 p.m./

12 --- L'audience est reprise à 15h22

13 **THE REGISTRAR:** This hearing is now resumed.
14 Please be seated. Veuillez vous asseoir.

15 **LORNE McCONNERY, Resumed/Sous le même serment:**

16 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR**

17 **MS. SIMMS (cont'd/suite):**

18 **MS. SIMMS:** So, Mr. McConnery, I just want
19 to refer you to one more document about information you
20 were provided by the OPP, and that's Document Number
21 130323.

22 **(SHORT PAUSE/COURTE PAUSE)**

23 **MS. SIMMS:** And, Mr. McConnery, this is a
24 letter to yourself from Inspector Hall dated July 25th,
25 2001.

1 **THE COMMISSIONER:** Thank you. That will be
2 Exhibit 3053.

3 **---EXHIBIT NO./PIÈCE NO P-3053:**

4 (130323) - Letter from Pat Hall to Lorne
5 McConnery re: Project Truth dated 25 Jul 01

6 **MS. SIMMS:** So we were just discussing, Mr.
7 McConnery, a number of follow-up requests you had made to
8 Inspector Hall to assist you with your review, and this
9 document appears to be a covering letter to a number of
10 materials that were provided to you by Mr. Hall.

11 **MR. McCONNERY:** Yes.

12 **MS. SIMMS:** All right.

13 And it includes some of the documents that
14 we were discussing, the interview report of Carson
15 Chisholm, the interview report of Archbishop Spence,
16 documentation about the Bishops Conference, et cetera?

17 **MR. McCONNERY:** Yes.

18 **MS. SIMMS:** As well as some additional
19 statements and additional CIB reports?

20 **MR. McCONNERY:** Yes.

21 **MS. SIMMS:** All right.

22 So these were, again, additional materials
23 that you reviewed while you were conducting your review of
24 the briefs; is that right?

25 **MR. McCONNERY:** Yes, that's correct.

1 **MS. SIMMS:** Okay. Now, with respect to the
2 review of your brief, you have prepared a number of
3 -- there are a number of documents entitled "Factual
4 Analysis" relating to some of these briefs.

5 I'm going to ask you to take a look at the
6 Factual Analysis relating to the Gary Ostler brief, which
7 is Document Number 103413.

8 **THE COMMISSIONER:** Thank you. That's
9 Exhibit Number 3054.

10 **MS. SIMMS:** And this should be marked
11 subject to publication ban.

12 **THE COMMISSIONER:** Thank you.

13 **---EXHIBIT NO./PIÈCE NO P-3054:**

14 (103413) - Factual Analysis of Proposed
15 Charge Against Father Gary Ostler undated

16 **MS. SIMMS:** So, Mr. McConnery, we're going
17 to look at a couple of other documents like this, entitled
18 "Factual Analysis."

19 Can you explain what the purpose of this
20 document was?

21 **MR. McCONNERY:** In the notes that I turned
22 over, was there a handwritten version of that?

23 **MS. SIMMS:** I can't -- I can't tell you
24 there was a handwritten version of other Factual Analyses.

25 **MR. McCONNERY:** Because I can tell you I

1 didn't type it.

2 MS. SIMMS: You're not a typist?

3 MR. McCONNERY: I'm not a typist.

4 MS. SIMMS: Okay. Well, it indicates that

5 ---

6 MR. McCONNERY: But ---

7 MS. SIMMS: Sorry?

8 MR. McCONNERY: Sorry. What was the purpose
9 of it? Well, I think just what it says, it was -- I was
10 trying to set out what I thought were the most significant
11 parts of the allegations against Father Gary Ostler in a
12 more concise fashion than a several-volume brief, and
13 trying to ---

14 MS. SIMMS: So there's a similar document,
15 and we'll take you to it, Mr. McConnery, regarding the
16 conspiracy allegations ---

17 MR. McCONNERY: Yes.

18 MS. SIMMS: --- and it's set out in a
19 similar way.

20 MR. McCONNERY: Yes.

21 MS. SIMMS: And we do have -- I don't have
22 it handy to show you, but I can get it; there are
23 handwritten versions of that document prepared.

24 MR. McCONNERY: Okay.

25 MS. SIMMS: So this does have your name on

1 it, and this is one of the briefs that you reviewed?

2 MR. McCONNERY: Yes, I -- I'm not disputing
3 it, I just ---

4 MS. SIMMS: Okay.

5 MR. McCONNERY: I would have handwritten it.

6 MS. SIMMS: You would have initially
7 handwritten it and perhaps somebody typed it up for you?
8 Is that ---

9 MR. McCONNERY: Yes.

10 MS. SIMMS: Okay. And have you had an
11 opportunity to review this at all?

12 MR. McCONNERY: The one on Father Ostler?
13 No.

14 MS. SIMMS: Okay. Is it fair to say that
15 this was -- you were preparing documents that summarized
16 what your review was and what you saw as the important
17 issues?

18 MR. McCONNERY: Yes.

19 MS. SIMMS: And that's what is encapsulated
20 in these Factual Analyses; is that fair?

21 MR. McCONNERY: Yes.

22 MS. SIMMS: Okay. And so just very
23 briefly -- I'm not going to go into any detail on this
24 document; it speaks for itself, but there are -- on the
25 second page, which is Bates page 693 ---

1 **MR. McCONNERY:** Yes.

2 **MS. SIMMS:** --- you set out several
3 allegations that Ron Leroux had made against Father Gary
4 Ostler. They are noted there as (a), (b) and (c)?

5 **MR. McCONNERY:** Yes.

6 **MS. SIMMS:** Okay. And it was your opinion,
7 with respect to the allegations of (a) and (b), which are
8 allegations about being part of a clan of pedophiles, or
9 being present -- or at Malcolm MacDonald's cottage?

10 **MR. McCONNERY:** Correct.

11 **MS. SIMMS:** Do you see those two?

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** And it was your view that
14 neither of those two allegations would support any criminal
15 charges?

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** So your focus in your analysis
18 was on the allegation of the assault in the statement made
19 by Ron Leroux?

20 **MR. McCONNERY:** Yes.

21 **MS. SIMMS:** Okay. And you set out in here
22 what you had identified as salient points in statements
23 made by Ron Leroux?

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** And you also, later in the

1 document on Bates page 695, make reference to interviews of
2 other persons, and on the following page to the interview
3 of Father Gary Ostler?

4 **MR. McCONNERY:** Yes.

5 **MS. SIMMS:** Okay. And then you have the
6 last -- the Part IV, which is on that final page, you have
7 a list of issues:

8 "No supporting evidence.

9 Is this alleged assault sexual in
10 nature?

11 Is this assault or horseplay?

12 Was there any criminal intent or was it
13 a joke?"

14 So these are issues that arose for you in
15 your review of the materials?

16 **MR. McCONNERY:** Well, taking the ---

17 **MS. SIMMS:** You believe so?

18 **MR. McCONNERY:** Taking the document at face
19 value, yes. I don't remember.

20 **MS. SIMMS:** Okay. And there's no conclusion
21 contained in this ---

22 **MR. McCONNERY:** No.

23 **MS. SIMMS:** --- Factual Analysis?

24 **MR. McCONNERY:** No.

25 **MS. SIMMS:** But you've told us that you

1 already had quite a clear view on the issue of RPG, I think
2 we were talking about back in early July?

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** Is that right?

5 **MR. McCONNERY:** Yes.

6 **MS. SIMMS:** Okay. So it's just not set out
7 in this material, but it was your view that there were not
8 reasonable and probable grounds?

9 **MR. McCONNERY:** It was my view there were
10 not.

11 **MS. SIMMS:** Okay. And you prepared a
12 similar document with respect to allegations that were
13 contained in the brief you were presented and the other
14 information you were presented regarding Bishop LaRocque.

15 **MR. McCONNERY:** Yes.

16 **MS. SIMMS:** Okay. So I'm going to take you
17 to that document. It's Document Number 103415. It should
18 be marked subject to a publication ban. It's a factual
19 analysis of proposed charge against Bishop Eugene LaRocque.

20 **THE COMMISSIONER:** Thank you.

21 Exhibit Number 3055.

22 **---EXHIBIT NO./PIÈCE NO. P-3055:**

23 (103415) - Factual Analysis of Proposed
24 Charge Against Bishop Eugene LaRocque
25 undated

1 **MS. SIMMS:** So do you have a recollection of
2 preparing this document, Mr. McConnery?

3 **MR. McCONNERY:** I certainly was responsible
4 for the review of the Bishop LaRocque file. So I would say
5 yes, but with the same comments I made earlier.

6 **MS. SIMMS:** Okay.

7 **MR. McCONNERY:** I probably did it in
8 handwriting form.

9 **MS. SIMMS:** And again you set out in your
10 review, and actually set it out in a bit more detail here
11 on page 704.

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** Well, actually if you can start
14 on 703, you list a number of statements and interviews that
15 you reviewed and you refer to the conspiracy allegations as
16 well as the sexual assault allegations. Okay?

17 So at the bottom of the page you say:

18 "In these statements and interviews,
19 Leroux also outlined an allegation
20 against several individuals, including
21 Bishop LaRocque, of being involved in
22 conspiring to cover up, by way of a
23 financial payment, a sexual assault
24 allegation against Father Charles
25 MacDonald by David Silmsen."

1 So we're moving on to the top of the next
2 page:

3 “So a review of that allegation was
4 done separately but should also be
5 considered in assessing potential
6 charges against Bishop LaRocque.”

7 And that review was conducted by yourself?

8 **MR. McCONNERY:** Yes.

9 **MS. SIMMS:** Okay. So it was a consideration
10 when you were looking at these allegations?

11 **MR. McCONNERY:** Yes.

12 **MS. SIMMS:** Your views on the conspiracy?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** Okay. And again you note that -
15 - more explicit you note that in this review you have
16 attempted to isolate and consider specific potential
17 charges against Bishop LaRocque.

18 So then there is again a number of
19 allegations made by Leroux that you outline that you didn't
20 consider forming any basis for criminal charges?

21 **MR. McCONNERY:** M'hm.

22 **MS. SIMMS:** And then you focus on the
23 specific allegation which could support a criminal charge?

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** And again you -- with reference

1 to the statements and materials you outlined what you saw
2 as issues?

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** And including interviews of
5 other persons and statements of Bishop LaRocque himself.
6 And again you conclude with a list of issues. So there's
7 no conclusion here regarding your views of this brief; it
8 just concludes with a list of issues?

9 **MR. McCONNERY:** Yes.

10 **THE COMMISSIONER:** Is this your normal way
11 of proceeding when you are asked to give an opinion,
12 provide a written opinion in that format?

13 **MR. McCONNERY:** No. No.

14 **MS. SIMMS:** Do you recall why you were
15 preparing this document?

16 **MR. McCONNERY:** Probably because I thought
17 that all of these matters were subject to some kind of
18 review later and I was -- had that in mind to some extent I
19 think.

20 I also -- I guess the fact as well -- excuse
21 me -- that another law firm was involved in reviewing some
22 of the same stuff and -- some of the same stuff -- some of
23 the same material and so I was trying to have a record of
24 some of what I saw as potential charges, potential issues,
25 et cetera.

1 But in these factual analysis, no, I would
2 say that's not a form I've ever used before. I don't put
3 in any opinion in them about what I thought.

4 **THE COMMISSIONER:** I was just going to
5 comment that if that was your procedure, you can count on a
6 lot -- a big increase in requests for opinions.

7 **MR. McCONNERY:** Yes, and I -- these were
8 very unusual circumstances, in my view.

9 **MS. SIMMS:** So, Mr. McConnery, we'll get to
10 your opinion letter, which you provided in August, and the
11 opinion letter is your response to Inspector Hall following
12 your review of the briefs.

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** So were these documents for your
15 internal use in analysing a brief or were they passed along
16 to the OPP?

17 **MR. McCONNERY:** I don't believe they went to
18 the OPP.

19 **MS. SIMMS:** Okay.

20 **MR. McCONNERY:** They may have gone to that
21 law firm.

22 **MS. SIMMS:** So they may have been provided
23 to someone who is providing you with a second opinion?

24 **MR. McCONNERY:** Yes. It seems to me that in
25 my notes -- and I don't know if you've seen the originals,

1 but the part that's covered by privilege, that I may have
2 listed the things that I forwarded to them. And I just --
3 so I don't know if that was included or not, but I did -- I
4 don't believe these were drafted to give to the police.

5 **MR. KLOEZE:** Mr. Commissioner, there may be
6 a list of documents that were provided to -- for the
7 purpose of seeking legal advice but we are claiming
8 privilege over that list of documents itself, what was
9 provided to that firm.

10 **THE COMMISSIONER:** Okay.

11 **MR. CALLAGHAN:** Just so we can have an
12 understanding of the evidence, can we get some clarity of
13 what law firm, on what topics? Not the legal advice just
14 yet, we'll get to that later. And it's a little confusing.

15 We heard earlier that Court of Appeal,
16 Justice Griffiths, might have assisted this witness in his
17 opinion finding, but now we're hearing a law firm. I think
18 we should have some clarity as to what we're talking about
19 so that the rest of us can understand the conversation.

20 **MR. KLOEZE:** I apologize. I may have
21 misspoke. Indeed it was Mr. Justice Griffiths who I
22 believe at that time was part of the ADR chambers.

23 **THE COMMISSIONER:** Okay.

24 **MR. McCONNERY:** Just to correct something;
25 he didn't assist me in anything that I did.

1 **THE COMMISSIONER:** He's the one who gave the
2 second opinion ---

3 **MR. McCONNERY:** He gave a second opinion.

4 **THE COMMISSIONER:** --- with respect to ---

5 **MR. McCONNERY:** Yes.

6 **THE COMMISSIONER:** --- Crown MacDonald's
7 involvement or non-involvement in all of this.

8 **MR. McCONNERY:** And I think there were other
9 briefs about that as well.

10 **THE COMMISSIONER:** All right. Okay.

11 **MS. SIMMS:** There is a further factual
12 analysis, Mr. McConnery, that is Document Number 103408.

13 **THE COMMISSIONER:** Thank you.

14 Exhibit Number 3056 is the factual analysis
15 as regards to Father Kevin Maloney.

16 ---EXHIBIT NO./PIÈCE NO. P-3056:

17 (103408) - Factual Analysis of Proposed
18 Charge Against Father Kevin Maloney undated

19 **MS. SIMMS:** And this should be marked
20 subject to publication ban.

21 **THE COMMISSIONER:** Certainly.

22 **MS. SIMMS:** So, Mr. McConnery, this document
23 appears to be authored by Kevin Phillips, who was assisting
24 you?

25 **MR. McCONNERY:** Yes.

1 **MS. SIMMS:** And you mentioned he was
2 primarily responsible for the review of the Father Kevin
3 Maloney brief but that you had been involved in that review
4 as well and briefed by him?

5 **MR. McCONNERY:** Correct.

6 **MS. SIMMS:** Do you recall if you would have
7 seen this analysis at the time?

8 **MR. McCONNERY:** I think it was, in looking
9 at it, that it's probably his form that I adopted.

10 **MS. SIMMS:** Okay. So again he gives an
11 outline of excerpts from various statements and information
12 that you had?

13 **MR. McCONNERY:** Yes.

14 **MS. SIMMS:** And included in that, if you
15 look at the very last page, which is Bates page 543, the
16 top paragraph makes reference to the issue about whether
17 Father Maloney had ever been to St. Joseph's Training
18 School.

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** And notes that the records are
21 being sought at that time.

22 **MR. McCONNERY:** Okay.

23 **MS. SIMMS:** And you subsequently did receive
24 those records?

25 **MR. McCONNERY:** We received some records. I

1 don't know now if they were able very specifically to
2 establish that Father Maloney was or was not ever at the
3 training school. We received, we felt, whatever records
4 were available.

5 MS. SIMMS: And again, there is reference in
6 Part II, which is the allegations section ---

7 MR. McCONNERY: Yes.

8 MS. SIMMS: --- to more than one allegation
9 with respect to Father Maloney.

10 MR. McCONNERY: Yes.

11 MS. SIMMS: Okay. This is the second
12 allegation -- sorry, let me put it differently.

13 The allegation we were just discussing, the
14 complainant was C-15, relating to the St. Joseph's Training
15 School.

16 MR. McCONNERY: Correct.

17 MS. SIMMS: And there's an indication here
18 in "Factual Analysis" and I think there was information in
19 your brief regarding a second allegation that had been made
20 by Ron Leroux with respect to observing Father Maloney
21 allegedly in bed with an unknown person?

22 MR. McCONNERY: Yes.

23 MS. SIMMS: Okay. So there is no analysis
24 or there is no list of issues or similar section of this
25 particular brief, but was your focus -- were you focused on

1 looking at the allegations that C-15 made when you were
2 reviewing this or were you giving consideration to the
3 other complaint as well?

4 **MR. McCONNERY:** The other complaint, in my
5 view, didn't make out a criminal offence ---

6 **MS. SIMMS:** Okay.

7 **MR. McCONNERY:** --- that there was any basis
8 upon which to look at the allegation of Mr. Leroux.

9 So yes, I think it was -- the focus of the
10 review regarding Father Kevin Maloney was the complaint of
11 C-15.

12 **MS. SIMMS:** So we've discussed already that
13 you were -- you mentioned you had an opinion already in
14 early July with respect to reasonable and probable grounds.
15 Was that with respect to allegations made by Ron Leroux or
16 did that also -- did you already have an opinion with
17 respect to these allegations?

18 **MR. McCONNERY:** I think what I meant to say,
19 if I didn't say it, was I had an opinion about Ron Leroux.

20 **MS. SIMMS:** Okay.

21 **MR. McCONNERY:** It would obviously impact
22 many of these briefs, but the opinion I had was a very
23 strong opinion about what I saw as the lack of credibility
24 of Ron Leroux.

25 **MS. SIMMS:** And did you form an opinion

1 subsequently then with respect to the C-15 allegations that
2 we're looking at now? Because they don't rely on the
3 credibility of Ron Leroux; correct?

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

5 **THE COMMISSIONER:** Do you want to recall as
6 to who C-15 is?

7 **MR. McCONNERY:** I know who C-15 is.

8 **THE COMMISSIONER:** Okay.

9 **MR. McCONNERY:** I'm sorry; can you run that
10 question by me again? I'm sorry.

11 **MS. SIMMS:** Well, you said you already had
12 an opinion regarding your concerns about the credibility of
13 Ron Leroux. You were clarifying that for me, and that that
14 had an impact on your view of allegations made by Ron
15 Leroux?

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** What about in this particular
18 case; we're dealing with a different complainant, C-15?
19 There is analysis that's conducted and your final opinion -
20 - we'll get to it, but it's a little vague.

21 **MR. McCONNERY:** It's a little ---

22 **MS. SIMMS:** It just says that there aren't
23 reasonable and probable grounds, and I was wondering what
24 your analysis was with respect to this particular complaint
25 in your assessment of reasonable and probable grounds?

1 **MR. McCONNERY:** Well, you know, I think it
2 was primarily Mr. Phillips, but there were a number of
3 things, it seems to me. First of all, the complaint, as it
4 relates to the St. Joseph's Training School, was a matter
5 that should, in my view, have come out, and there's no
6 reason for a complainant, in light of what had happened at
7 St. Jo's, not to have come forward when that investigation
8 was ongoing.

9 And in fact, my recollection, thinking back
10 to that, was that sort of a line had been drawn. There
11 were group actions, civil actions being brought against the
12 training school and against ---

13 **THE COMMISSIONER:** The brothers?

14 **MR. McCONNERY:** --- the brothers, and I mean
15 there was a plea for anyone -- as I understand it, a plea
16 for anyone to come forward and deal with their complaints.
17 This fellow didn't come forward.

18 **THE COMMISSIONER:** Sure he did.

19 **MR. McCONNERY:** I'm sorry?

20 **THE COMMISSIONER:** Sure he did.

21 **MR. McCONNERY:** Back then?

22 **THE COMMISSIONER:** Yeah. Look at page 2.
23 If I'm on the right wavelength here, 3056, he did complain.
24 It seems that he complained, but in there, no charges were
25 laid. If you look at the second paragraph, it says:

1 "The allegation to the extent of any
2 sexual impropriety alleged by the
3 witness..."

4 **MS. SIMMS:** Mr. Commissioner, I think, Mr.
5 McConnery, what you're looking at, that is referring to him
6 coming forward in 1993 regarding alleged assaults committed
7 against him by a different brother, just so we're clear.
8 You can read that over.

9 **MR. McCONNERY:** Right.

10 **MS. SIMMS:** Okay? And then on the following
11 page there's a reference on page 3 we're on now.

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** Which is 539. There's a
14 reference to the statement of Carol ---

15 **THE COMMISSIONER:** Deschamps.

16 **MS. SIMMS:** --- Deschamps, who references C-
17 15 about four or five years ago wanted to lodge a complaint
18 about being assault at Alfred Training School and it refers
19 to him writing a statement and sending it to his lawyer,
20 Malcolm MacDonald.

21 Do you see that?

22 **MR. McCONNERY:** Yes.

23 **MS. SIMMS:** Okay. So there is some
24 indication that he was coming forward with allegations
25 predating this disclosure, the first one relating not to

1 Father Kevin Maloney.

2 MR. McCONNERY: Right.

3 MS. SIMMS: And it notes in that paragraph,
4 Mr. McConnery, to that comment in the statement about C-15
5 writing out a statement and sending it to his lawyer, and
6 it's noted that the existence of this complaint has never
7 been confirmed?

8 MR. McCONNERY: Yes.

9 MS. SIMMS: Do you know what, if any, or can
10 you recall whether that is an area where you requested
11 follow-up from the OPP?

12 MR. McCONNERY: Or whether it was even
13 addressed in their brief? It may not have required follow-
14 up. It may have been done. Do I recall that? No, I
15 don't.

16 MS. SIMMS: When you're referencing the
17 whole history of the Alfred case, is this something you're
18 considering in terms of -- is this a concern for you about
19 credibility or is it a concern about public interest? I
20 was a little confused.

21 MR. McCONNERY: I think it's both. You
22 know, in fairness, I'm going to need to take the time to
23 read this document front to back.

24 MS. SIMMS: Yes.

25 MR. McCONNERY: It's Kevin Phillips'

1 document.

2 MS. SIMMS: Okay.

3 THE COMMISSIONER: Take a moment.

4 MR. McCONNERY: Can I do that?

5 THE COMMISSIONER: Sure.

6 (SHORT PAUSE/COURTE PAUSE)

7 MR. McCONNERY: Okay, I've tried to review
8 it quickly.

9 MS. SIMMS: Does it refresh your memory at
10 all?

11 MR. McCONNERY: It helps, yes, certainly.

12 I think they were pretty significant issues
13 to be concerned about with C-15 and the fact that he had
14 been involved in the earlier investigation and that had
15 resulted in a settlement. No charges had been laid based
16 on his complaint.

17 Now, during the course of this, he comes
18 forward and says, "Oh my God I was involved. I was abused
19 even to a greater extent at Alfred again by another priest"
20 and, you know, that's what jumps out at me as I recall.

21 There was a very real concern about whether
22 or not he could identify the priest and that his
23 identification had been probably -- was not salvageable in
24 the sense that it appeared that somebody had shown him a
25 photograph and said is this the person who had sexually

1 assaulted you and that would ---

2 **MS. SIMMS:** And that somebody was?

3 **MR. McCONNERY:** Perry Dunlop. And that
4 would likely make that as an identification issue, an
5 unsalvageable case in my view.

6 You know, there were concerns. I mean, he
7 has the opportunity to complain and he complains about a
8 second priest, about a much lesser matter than in this one.
9 He doesn't complain -- he doesn't realize on anything
10 financial. Now, he's complaining again now. He goes to
11 the compensation board. He withdraws his complaint. It's
12 too much of a hassle and then his identification is
13 assisted by Perry Dunlop.

14 **MS. SIMMS:** So I just put it to you, when
15 you're talking about the Alfred situation and that there
16 had been a number of criminal and civil proceedings they'd
17 resolved and whether your concern in this case in terms of
18 your charged screening, so to speak, was a public interest
19 concern? And what I'm hearing from you is that wasn't the
20 case?

21 **MR. McCONNERY:** It wasn't the case but I
22 wouldn't say it wasn't some -- a factor to some degree. I
23 believe that Officer Tim Smith had something to do with
24 Alfred investigation.

25 **MS. SIMMS:** M'hm.

1 **MR. McCONNERY:** As had Mr. Pelletier.

2 It was my understanding that in discussion
3 with possibly within the Ministry of the Attorney General,
4 a decision was made that they had to bring this matter to a
5 head. They couldn't just, you know, there were civil
6 actions, there were payments, there were this and that, and
7 you couldn't just let complainants jump on the band wagon 2
8 years, 5 years, 10 years, 20 years later, and they drew a
9 line in the sand and they said we're not going to lay
10 further charges.

11 Everybody -- not everybody but the publicity
12 was widespread about that investigation. And then here you
13 have a complainant who says, I was sexually assaulted then,
14 no charges laid, and now in this one he comes forward and
15 says, oh and I was sexually assaulted even to a more
16 substantial degree at the same institution, not in
17 Cornwall, but in Alfred.

18 **MS. SIMMS:** So you were advised, did you say
19 you were advised by Inspector Smith or Inspector Hall that
20 there had been a decision that there would be no further
21 charges with respect to ---

22 **MR. McCONNERY:** I think it was Inspector
23 Smith.

24 **MS. SIMMS:** Okay, and so were you surprised
25 then that there had been an investigation and you were

1 asked to review a brief with respect to an allegation with
2 respect to St. Joseph's?

3 **MR. McCONNERY:** I don't know that that
4 question ever arose for me because the information from
5 Smith came after the fact. We'd already done the review of
6 the brief.

7 **MS. SIMMS:** I was going to move, Mr.
8 McConnery, to a document that appears to be a summary
9 document prepared with respect to conspiracy allegations.

10 **MR. McCONNERY:** Yes, okay.

11 **MS. SIMMS:** Have you had a chance to --
12 well, let me -- it's Exhibit 2651, Document Number 103411.

13 **MR. McCONNERY:** Okay.

14 **MS. SIMMS:** Now, before we get too far into
15 this, Mr. McConnery, have you had an opportunity to review
16 this document?

17 **MR. McCONNERY:** Some of it, not necessarily
18 in significant detail. I was asked to do it last night and
19 Mr. Kloeze and I met before I had to go to Ottawa, but not
20 knowing the process, I was advised that all kinds of
21 notices had come in about other documents from counsel at
22 the Inquiry and we spent our time looking at those, so I
23 apologize.

24 **MS. SIMMS:** That's fine. I just wanted to
25 know how -- if you had recently reviewed this so you were

1 familiar with it and comfortable answering questions about
2 it.

3 **MR. McCONNERY:** I think I am. I think that
4 I have a pretty good recollection of the conspiracy
5 allegation, I think.

6 **MS. SIMMS:** Okay, that's great.

7 So this is a document I mentioned to you;
8 that we did have handwritten notes of yours, which I
9 haven't referred you to but they do relate to -- appear to
10 relate to the preparation of this document.

11 **MR. McCONNERY:** Okay.

12 **MS. SIMMS:** So do you recall being the
13 author of this factual analysis?

14 **MR. McCONNERY:** I would say yes. Those are
15 certainly my initials on the front page. That's my
16 handwriting.

17 **MS. SIMMS:** You were the person primarily
18 responsible for the review of the conspiracy allegations;
19 correct?

20 **MR. McCONNERY:** Yes, I was.

21 **MS. SIMMS:** You review on the first several
22 pages allegations that are drawn from Perry Dunlop's civil
23 action, and I want to direct you to Bates page 625.

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** Page 6 of the document.

1 **MR. McCONNERY:** Yes.

2 **MS. SIMMS:** And you say there in paragraph
3 10, and we discussed before what your view was of the scope
4 of your review, and you set out in paragraph 10 a sort of
5 summary of that and you say:

6 "My review of this matter has been
7 isolated to the allegation of
8 conspiracy to obstruct justice against
9 various members of the Roman Catholic
10 Church, members of the Cornwall Police
11 Service, and the Crown Attorney of the
12 United Counties of Stormont Dundas &
13 Glengarry, in allegedly arranging for a
14 financial settlement to be paid to
15 David Silmser for the purpose of
16 derailing and terminating the criminal
17 investigation of Silmser's complaint
18 and any potential criminal prosecution
19 arising there from."

20 So does that accurately express what your
21 understanding of your review was?

22 **MR. McCONNERY:** I think it does and -- I
23 think it does, yes.

24 **MS. SIMMS:** And in the paragraph that
25 follows, you set out -- and I don't think it's an

1 exhaustive list -- but you set out a number of the briefs
2 that you reviewed in consideration of this opinion?

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** And also on the following page,
5 page 7, you indicate some of the other material that you
6 reviewed?

7 **MR. McCONNERY:** Yes.

8 **MS. SIMMS:** So the scope of your -- the
9 scope of your review did not include other allegations,
10 other potential allegations of conspiracy with respect to,
11 say, the term "clan of paedophiles" or "ring of
12 paedophiles" or whether people were conspiring to effect
13 sexual abuse on children? That was not what you were
14 looking at?

15 **MR. McCONNERY:** No.

16 **MS. SIMMS:** Okay.

17 **MR. McCONNERY:** No. But I was looking at
18 whether or not there was evidence to support an allegation
19 of a very particular criminal conspiracy. There's a
20 criminal conspiracy that alleged, primarily upon the
21 evidence of Ron Leroux, a conspiracy amongst the chief of
22 police, the head Crown Attorney for the United Counties,
23 Bishop LaRocque, two or more local lawyers. I believe
24 there was a funeral director named, a whole raft of people,
25 and the result of the conspiracy being the contract or

1 agreement that Mr. Silmsner signed.

2 So the issue, I suppose, was -- for me, was
3 that conspiracy of those 10 or 12 people, was there
4 evidence to support charges of that conspiracy? And I felt
5 there wasn't, and I gather you're going to go through that,
6 but was there any conspiracy that led to the signing of
7 that agreement?

8 **MS. SIMMS:** So when you say that was your
9 review or your focus, was there any conspiracy, so you
10 weren't limiting yourself that all these parties
11 necessarily are involved? You were looking at any
12 possibility that there ---

13 **MR. McCONNERY:** No, no. I was asked to
14 review this large conspiracy, fairly large, 8 or 10 people,
15 of reasonably prominent people in the Cornwall community,
16 as to their involvement in an allegation of a conspiracy to
17 obstruct justice by offering money to David Silmsner so that
18 he would not cooperate in a criminal investigation. All
19 right?

20 **MS. SIMMS:** M'hm.

21 **MR. McCONNERY:** But, bear in mind, there was
22 evidence that Silmsner entered into an agreement. There was
23 evidence that it was drafted by a lawyer, and whether or
24 not there was a much more narrow conspiracy that resulted
25 in that had been looked at previously.

1 And so really what I was reviewing was --
2 and I wouldn't call it a new allegation because the
3 allegation and the briefs had been already in existence for
4 some time, was that conspiracy, if it existed, was it a
5 conspiracy involving all of these people?

6 **MS. SIMMS:** Okay.

7 **MR. McCONNERY:** I don't know if I was that
8 clear.

9 **MS. SIMMS:** So the previous investigation
10 you're referring to is the 1994 investigation that was
11 conducted by the OPP?

12 **MR. McCONNERY:** Yes.

13 **MS. SIMMS:** And Inspector Tim Smith was the
14 lead on that investigation?

15 **MR. McCONNERY:** Yes.

16 **MS. SIMMS:** And we just previously looked at
17 a note from when you were provided with his brief on that
18 matter?

19 **MR. McCONNERY:** Okay. Yes.

20 **MS. SIMMS:** Is that correct?

21 **MR. McCONNERY:** Right.

22 **MS. SIMMS:** And he, at that time, was
23 looking at whether there was sort of somewhat similar to
24 the way you phrased your scope here, whether there was
25 evidence that a number of parties conspired to effect a

1 civil settlement with David Silmser that would end the
2 criminal prosecution?

3 MR. McCONNERY: Correct.

4 MS. SIMMS: So in your view -- correct me if
5 I'm wrong but I'm trying to encapsulate what you've said to
6 us -- in your view, that matter had been investigated, an
7 opinion had been rendered, and you were not reviewing that
8 -- those particular allegations?

9 MR. McCONNERY: Right.

10 MS. SIMMS: And so in your view ---

11 MR. McCONNERY: And part of what happened
12 there, I take it, was there was a charge of obstruct
13 justice.

14 MS. SIMMS: With respect to Malcolm
15 MacDonald?

16 MR. McCONNERY: Correct.

17 MS. SIMMS: No charge of conspiracy?

18 MR. McCONNERY: Correct.

19 So then a new allegation comes forward. By
20 the time I look at it, it's no longer new, but it's based
21 on the allegation of Ron Leroux that if the conspiracy that
22 resulted in the Silmser agreement was a much broader
23 conspiracy involving the people that I have referred to,
24 and that's what I was asked to look at.

25 MS. SIMMS: Okay. So in your view, you were

1 assessing the allegations made in Ron Leroux's statements,
2 in particular regarding the meeting on Stanley Island that
3 he alleged?

4 **MR. McCONNERY:** Correct.

5 **MS. SIMMS:** Is that fair to say?

6 **MR. McCONNERY:** Yes.

7 **MS. SIMMS:** So in your view, your review
8 again was relying on statements made by Ron Leroux. Is
9 that fair with respect to this group as well?

10 **MR. McCONNERY:** Yes. Yes.

11 **MS. SIMMS:** Okay.

12 And you also reference a number of
13 statements -- I sort of skipped over them -- but pleadings
14 that were made by Perry Dunlop in his statement of claim.

15 How did you see the information in Perry
16 Dunlop's statement of claim as relating to your review that
17 you were conducting?

18 **MR. McCONNERY:** It seemed to me to be
19 evidence of a rather unholy alliance between Ron Leroux and
20 Perry Dunlop.

21 **MS. SIMMS:** So you're -- as I recall, and
22 correct me if I'm wrong, the statements of Ron Leroux that
23 you were considering related to allegations that he had
24 seen people in certain places; he had spoken to people
25 about certain events; that he had knowledge of certain

1 gatherings?

2 **MR. McCONNERY:** Yes.

3 **MS. SIMMS:** Is that fair to say?

4 And you were also presented with, and you
5 detail here, pleadings in a civil action made by Perry
6 Dunlop.

7 Was it your understanding on your review
8 that Perry Dunlop had direct knowledge of any of these
9 gatherings or associations?

10 **MR. McCONNERY:** My recall would be that his
11 knowledge came from Ron Leroux.

12 **MS. SIMMS:** Okay.

13 **MR. McCONNERY:** And be mindful that they
14 also shared the same lawyer, Mr. Bourgeois.

15 **MS. SIMMS:** So your review -- and I'm going
16 to -- your document sets out a detailed or a somewhat
17 detailed factual background, timeline, which is Part B of
18 your document.

19 **MR. McCONNERY:** Yes.

20 **MS. SIMMS:** And then Part C of your
21 document, which starts at Bates page 644 ---

22 **MR. McCONNERY:** At 644?

23 **THE COMMISSIONER:** That would be the Bates
24 page.

25 **MS. SIMMS:** Oh, sorry, the Bates page is

1 644. The actual page is 25 or the printed page is 25.

2 **MR. McCONNERY:** Yes.

3 **MS. SIMMS:** Okay. So this is your summary
4 or introduction to the allegations of Ronald Leroux.

5 **MR. McCONNERY:** Okay.

6 **MS. SIMMS:** And deals, I guess, with some of
7 the matters we were discussing, the fact that there was a
8 previous investigation by the OPP into alleged collusion
9 between the Crown, Church and the police in the David
10 Silmser case?

11 **MR. McCONNERY:** M'hm.

12 **MS. SIMMS:** And you quote there from Peter
13 Griffiths, who was then Regional Director of Crown
14 Attorneys, his opinion with respect to the brief that was
15 presented to him on that investigation.

16 **MR. McCONNERY:** Yes.

17 **MS. SIMMS:** And you note that the
18 information before Mr. Griffiths in 1994 has been largely
19 reinvestigated, many parties being interviewed on multiple
20 occasions?

21 **MR. McCONNERY:** Yes.

22 **MS. SIMMS:** But it was not your
23 understanding that you were to reassess that information
24 that had already been provided to Mr. Griffiths and an
25 opinion had already been provided?

1 **MR. McCONNERY:** No, my view was I was being
2 asked to assess the allegation of a conspiracy, the
3 evidence of which was substantially the evidence of Ron
4 Leroux, of meetings at Ken Seguin's house and I forget the
5 name of the -- there was an island involved.

6 **THE COMMISSIONER:** Stanley Island.

7 **MS. SIMMS:** Stanley Island.

8 **MR. McCONNERY:** Stanley Island, and this
9 group of men went out to the island, that whole story.

10 **MS. SIMMS:** Okay. So that was the focus of
11 what you were looking at?

12 **MR. McCONNERY:** That was what I was looking
13 at.

14 **MS. SIMMS:** Okay. And you go on to set that
15 out, I think, in this section of your report, and you say
16 at the bottom of the page we're on:

17 "So far as I'm aware during this
18 lengthy investigation, there has not
19 been uncovered any evidence to support
20 the facts of the meeting described by
21 Leroux."

22 And that's aside from Leroux's statements
23 themselves; correct?

24 **MR. McCONNERY:** Yes.

25 **MS. SIMMS:** And you also take into account

1 other allegations made by Ron Leroux and you have a list of
2 them there?

3 MR. McCONNERY: Yes.

4 MS. SIMMS: And these include some of the
5 allegations that were contained in the briefs that you were
6 reviewing?

7 MR. McCONNERY: Yes.

8 MS. SIMMS: And so again you have prepared a
9 chronology and some summaries of the materials that you
10 reviewed ---

11 MR. McCONNERY: M'hm.

12 MS. SIMMS: --- including statements from
13 various witnesses and statements from the parties as well?

14 MR. McCONNERY: Yes.

15 MS. SIMMS: And you have in Part E what
16 seems to be sort of a summary of your thoughts on what
17 potential charges could be, and that's on Bates page 666.

18 MR. McCONNERY: I can't believe I wrote all
19 this -- 666?

20 MS. SIMMS: I take it -- it is extensive,
21 Mr. McConnery, what you've written, and it's all referenced
22 to various materials that you were provided, it appears.

23 MR. McCONNERY: Yes.

24 MS. SIMMS: So this is a -- was intended to
25 be an extensive, thorough reflection of your review and

1 what you saw as significant. Is that fair?

2 **MR. McCONNERY:** Sure.

3 **MS. SIMMS:** And you don't make any
4 conclusions with respect to reasonable probable grounds.
5 You don't write any conclusions in this document that --
6 you do set out in Part E, which I just directed you to,
7 what you saw as the possible charges arising from these
8 allegations.

9 **MR. McCONNERY:** Yes.

10 **MS. SIMMS:** And you refer to a number of
11 possible witnesses on the following page.

12 **MR. McCONNERY:** M'hm.

13 **MS. SIMMS:** And then you have a note on the
14 following page, on page 48.

15 **MR. McCONNERY:** M'hm. Yes.

16 **MS. SIMMS:** And it says:

17 "The theory behind the charges framed
18 above and the group of accused persons
19 would have to be based on the evidence
20 of the negotiations and combined with
21 the evidence of Leroux as to the VIP
22 meeting at Stanley Island."

23 And you're talking about the negotiations
24 leading up to the illegal settlement with David Silmser.
25 Is that right?

1 **MR. McCONNERY:** Yes.

2 **MS. SIMMS:** And that is part of what was the
3 subject of the 1994 OPP investigation. Is that correct?

4 **MR. McCONNERY:** Yes.

5 **MS. SIMMS:** So in your view, a theory behind
6 charges would have to combine that information with the
7 evidence of Leroux as to the VIP meeting at Stanley Island?

8 **MR. McCONNERY:** Yes.

9 **MS. SIMMS:** And you note clearly without the
10 evidence of Leroux several of the group of potential
11 accused would never be charged, and you note Chief Shaver,
12 Staff Inspector McDonald, Ron Wilson and Crown Attorney
13 Murray MacDonald.

14 And I guess what I'm getting -- I asked you
15 this before and maybe I'm just not clear on what your
16 response is.

17 In your review, was this an all or nothing
18 proposition? Like, did the conspiracy either include all
19 of the seven people you've listed or there were no grounds
20 for charges, or were you looking at possible conspiracy
21 between two of the parties rather than all seven of the
22 parties?

23 **MR. McCONNERY:** I was looking at whether or
24 not there was a conspiracy substantiated by a
25 conspiratorial meeting on a certain weekend in September of

1 whatever the year was, '93 ---

2 **MS. SIMMS:** M'hm.

3 **MR. McCONNERY:** --- which resulted in the
4 Silmsen agreement.

5 **MS. SIMMS:** So by necessity then you were
6 looking at all of these alleged people that ---

7 **MR. McCONNERY:** Well, it didn't have to be
8 all of them.

9 **MS. SIMMS:** Okay.

10 **MR. McCONNERY:** I mean, an error on one or -
11 - it could be five, it could be seven. But the substance
12 of what I was looking at is whether or not there was
13 evidence of a meeting of conspirators that resulted in that
14 agreement which would substantiate charges against that
15 broader group, whoever was, we felt -- because you can
16 certainly lay conspiracy charges against A, B, C, D and
17 other persons unknown if there were others there, maybe not
18 properly identified, maybe things of that nature. And the
19 bottom line here was it was all based on hearsay and so
20 there was ---

21 **MS. SIMMS:** So ---

22 **MR. McCONNERY:** Sorry.

23 **MS. SIMMS:** No, that's okay.

24 **MR. McCONNERY:** So there was that very
25 significant issue as well.

1 Would Leroux ever be allowed to testify as
2 to what Seguin had told him? Is there any way -- was it
3 admissible? Was it a statement in furtherance of a
4 conspiracy? It probably wasn't because he wasn't trying to
5 engage ---

6 **MS. SIMMS:** Okay. Let's just back up.

7 **MR. McCONNERY:** Sorry. Okay.

8 **MS. SIMMS:** Because I think maybe that's a
9 bit -- we've sort of jumped ahead to another issue you
10 flagged.

11 But just to be clear then, when you're
12 assessing reasonable probable grounds, you are looking at
13 is there reasonable probable grounds with respect to the
14 meeting described by Ron Leroux as occurring on Stanley
15 Island in 1993, and that that meeting -- at that meeting
16 there was ---

17 **MR. McCONNERY:** Yes.

18 **MS. SIMMS:** --- a conspiracy -- parties
19 conspired?

20 **MR. McCONNERY:** Yes, some or all of the
21 people that he has named.

22 **MS. SIMMS:** Okay.

23 **MR. McCONNERY:** Yeah.

24 **MS. SIMMS:** And in your consideration of
25 that specific issue you just mentioned a number of things,

1 and I think they relate to the second paragraph on page 48
2 that you have there, Bates page 667.

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** Okay. So in addition to
5 concerns -- and you haven't mentioned them here but you
6 mention them later -- concerns you have with Ron Leroux's
7 credibility generally?

8 **MR. McCONNERY:** Correct.

9 **MS. SIMMS:** You flag here some issues with
10 respect to admissibility of some of the evidence that he
11 could potentially give.

12 **MR. McCONNERY:** Correct.

13 **MS. SIMMS:** And that's what you were
14 referring to just now?

15 **MR. McCONNERY:** Yes.

16 **MS. SIMMS:** And that evidence would relate
17 to conversations he allegedly had with Ken Seguin following
18 the meeting -- following the alleged meeting?

19 **MR. McCONNERY:** Yes, and maybe not -- well,
20 he certainly didn't go to Stanley Island, I don't believe,
21 but it seemed to me that he was relating conversations
22 about the group as they were arriving, and he's making
23 observations and he's talking to Ken Seguin and then Ken
24 Seguin telling him later about the result of what had
25 happened at the ---

1 **MS. SIMMS:** And Ken Seguin is since deceased

2 ---

3 **MR. McCONNERY:** Yes.

4 **MS. SIMMS:** --- when you're reviewing this?

5 **MR. McCONNERY:** Yes.

6 **MS. SIMMS:** So the issue you were just
7 raising was with respect to admissibility of -- an
8 exception to the hearsay argument?

9 **MR. McCONNERY:** Sure. Yes.

10 **MS. SIMMS:** Whether there would be a
11 successful exception to the hearsay argument to allow
12 Leroux to relate these conversations for the truth of their
13 content?

14 **MR. McCONNERY:** Yes.

15 **MS. SIMMS:** Is that fair? Okay.
16 So that's an issue you flag as well?

17 **MR. McCONNERY:** Yes.

18 **MS. SIMMS:** And you find in your discussion
19 of that, which continues on to page 49, you state:

20 "I can see no basis for admitting the
21 statements of Seguin to Leroux as
22 statements in furtherance of a
23 conspiracy."

24 **MR. McCONNERY:** No, that's right.

25 **MS. SIMMS:** Okay. And that's with respect

1 to whether they'd be subject to a certain exception to the
2 hearsay rule.

3 So you then take the view, and you note your
4 view, that the reliability of Leroux would be a central
5 issue with respect to this issue as it is the whole
6 conspiracy theory.

7 **MR. McCONNERY:** Yes.

8 **MS. SIMMS:** And can you just explain --
9 well, and I think that's probably set out fairly clearly on
10 that same page under scenario two.

11 **MR. McCONNERY:** Yes.

12 **MS. SIMMS:** And this I guess just reiterates
13 your view that your review is based entirely on the
14 existence or non-existence of that alleged VIP meeting. So
15 you say:

16 "If the evidence of Leroux is
17 determined to be so unreliable that the
18 prosecution would not advance its
19 evidence that what remains would appear
20 to be the same factual premises that
21 was presented to Peter Griffiths who
22 gave the opinion in 1994."

23 **MR. McCONNERY:** Yes.

24 **MS. SIMMS:** And you go on to say:

25 "If Leroux was determined to be

1 unreliable then despite the thorough
2 investigation of Project Truth
3 investigators, the evidence is really
4 no different than presented to
5 Griffiths."

6 **MR. McCONNERY:** Yeah, I think that's where
7 my analysis brought me.

8 **MS. SIMMS:** Okay. And you state:
9 "The theorizing and speculations of
10 Perry Dunlop do not advance the case."

11 And I guess that was related to my question
12 about whether you were of the view that there was direct --
13 whether Perry Dunlop could contribute any direct evidence
14 to this analysis?

15 **MR. McCONNERY:** Having not seen all of Perry
16 Dunlop's writings now for years, I do not recall him having
17 any direct evidence in this particular matter at all.

18 **MS. SIMMS:** And on the following page,
19 Mr. McConnery -- it's page 669 -- you set out a Scenario 3,
20 and you note:

21 "A perplexing issue is that Jacques
22 Leduc was never charged in 1995."

23 **THE COMMISSIONER:** And that is to do with
24 conspiracy -- with the obstruct justice?

25 **MR. McCONNERY:** Yes.

1 **THE COMMISSIONER:** Okay. So how does that
2 fit in, in here? Is this -- I'm interested in this because
3 I had -- j'ai soulevé -- I had raised the issue.

4 The whole issue is about, by the time you're
5 doing this, both Malcolm MacDonald and Jacques Leduc have
6 been charged with sexual assault offences, and you're
7 saying that changes things a little bit as to what their
8 motive might have been for having Silmsner sign the release?

9 **MR. McCONNERY:** Yes.

10 **THE COMMISSIONER:** Okay.

11 **MR. McCONNERY:** Malcolm MacDonald had been
12 charged with sexual assault?

13 **THE COMMISSIONER:** Yes. Malcolm MacDonald
14 was subsequently charged with sexual -- well, here, he's
15 got ---

16 **MR. McCONNERY:** Oh, okay. You know what I
17 was thinking? That he passed away just prior to charges.
18 That wasn't ---

19 **THE COMMISSIONER:** No, no, he was charged
20 first.

21 **MS. SIMMS:** I believe he was charged and he
22 passed away just ---

23 **THE COMMISSIONER:** He was charged.

24 **MS. SIMMS:** --- prior to the preliminary --

25 -

1 **THE COMMISSIONER:** But in any event, let's
2 just go back ---

3 **MR. McCONNERY:** Okay.

4 **THE COMMISSIONER:** Let's just go back to
5 your scenario here.

6 **MR. McCONNERY:** Yes.

7 **MS. SIMMS:** So what brought you there?

8 **MR. McCONNERY:** Can I read it?

9 **THE COMMISSIONER:** Sure.

10 **MR. McCONNERY:** Please? Sorry.

11 **THE COMMISSIONER:** Sure.

12 **MR. McCONNERY:** Thank you.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **MR. McCONNERY:** Well, it sort of jumps out
15 at you, doesn't it?

16 **THE COMMISSIONER:** Well, nobody else thought
17 of it.

18 **MR. McCONNERY:** I mean, something Mr. --
19 correct me if I'm wrong now -- I don't have a photographic
20 memory -- Mr. Leduc was never indicated as being one of the
21 Stanley Island participants. He's not mentioned in that,
22 is he?

23 **THE COMMISSIONER:** Is he?

24 **MR. McCONNERY:** I don't know.

25 **MS. SIMMS:** Well, he ---

1 **MR. McCONNERY:** I don't know.

2 **THE COMMISSIONER:** Leduc? I don't think so.
3 Mr. Callaghan?

4 **MR. CALLAGHAN:** The sequence -- the sequence
5 is as follows. In the October 31st, the original affidavit,
6 he's not there.

7 On the November affidavit, he's not there.

8 Then there is the interview with Dunlop on
9 December 1st, where Dunlop talks him in and raises Leduc.

10 He then says Leduc is there, and then he
11 signs two back-to-back statements, December 4th and December
12 7th. If indeed he actually signed them, that's an issue, in
13 which he puts Leduc at the meeting, but not on the earlier
14 ones, just at the latter ones.

15 **THE COMMISSIONER:** Okay. So that would -- I
16 don't know, there's two things I want to know, is how did
17 you get about to this -- well, there's a bunch of
18 questions, what your decision is and what is this thing
19 about -- where did you get this thing about:

20 "In fact, Mr. MacDonald's -- Malcolm
21 MacDonald's interview in December 1999
22 raises real concerns about Leduc.
23 MacDonald described that Leduc wanted
24 MacDonald and Leduc each to pay \$25,000
25 as part of a settlement payment to

1 Silmser after Seguin's death."

2 I have to tell you, I missed this part of
3 the exhibit when it was filed, but do we have anything more
4 on that?

5 **MS. SIMMS:** I'm just looking to see if I can
6 refer you, if it's in the summary. It's further described
7 in the summary that Mr. McConnery prepared ---

8 **THE COMMISSIONER:** M'hm. Well, I think what
9 we'll do, we will stop here for the night.

10 Could you please make sure to give the
11 witness whatever heads-up on -- and I'm sure you have to a
12 certain degree -- of the documents you'll be reviewing
13 tomorrow? And I'd like to start off by reviewing this
14 document again and the Scenario Number 3 so we can get a
15 clear view in the morning. How's that?

16 **MS. SIMMS:** Thank you.

17 **THE COMMISSIONER:** Thank you.

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

20 This hearing is adjourned until tomorrow
21 morning at 9:30 a.m.

22 --- Upon adjourning at 4:27 p.m./

23 L'audience est ajournée à 16h27

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C E R T I F I C A T I O N

I, Dale Waterman 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, Dale Waterman, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Dale Waterman, CVR-CM