

**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 83**

**Held at :**

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

Tuesday, January 16, 2007

**Tenue à:**

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

Mardi, le 16 janvier 2007

**Appearances/Comparutions**

Mr. Peter Engelmann	Lead Commission Counsel
Mr. Pierre Dumais	Commission Counsel
Ms. Louise Mongeon	Registrar
Mr. John E. Callaghan Mr. Marc Crane	Cornwall Police Service Board
Mr. Neil Kozloff Actg.Det.Supt.Colleen McQuade Dect.Staff Sgt.Colin Groskopf	Ontario Provincial Police
Mr. David Rose Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Leslie McIntosh	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Mark Ertel	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
Ms. Jill Makepeace	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Bryce Geoffrey	Mr. John MacDonald

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1 --- Upon commencing at 10:02 a.m./

2 L'audience débute à 10h02

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you. Good morning,  
10 all.

11 Mr. Engelmann.

12 **MR. ENGELMANN:** Good morning, Mr.  
13 Commissioner.

14 I'm just here for a couple of minutes. No  
15 new faces that I know of, although I think you met Mr.  
16 Geoffrey, Mr. MacDonald's counsel.

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

18 **MR. ENGELMANN:** And as indicated earlier,  
19 Ms. McIntosh for the Ministry of the Attorney General had  
20 emailed and said she'd be coming in around 11:00. And so  
21 she will be here representing MAG.

22 Just by way of introduction, this is a  
23 continuation of the evidence of John MacDonald. Mr.  
24 MacDonald is present this morning and I understand his  
25 cross-examination has started and will carry on for the next

1 two days.

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

3 **MR. ENGELMANN:** We have an all counsel  
4 meeting set for this Thursday, January 18<sup>th</sup> after the  
5 conclusion of Mr. MacDonald's evidence so that counsel for  
6 all parties can discuss issues of interest and concern with  
7 counsel for the Inquiry.

8 I just wanted to indicate to you and the  
9 public that hearing dates have been scheduled for Phase I  
10 throughout the calendar year and those hearing dates are  
11 posted on the Commission's website if people aren't aware  
12 of those dates.

13 After this week, Commission is next sitting  
14 the week of September 29<sup>th</sup> ---

15 **THE COMMISSIONER:** I don't think so,  
16 September 29<sup>th</sup>.

17 **MR. ENGELMANN:** Oh, I'm a few months ahead  
18 of myself -- January 29<sup>th</sup>, and I understand at that time,  
19 sir, you'll be addressing counsel and the public on the  
20 year to come. Commission counsel will also be setting out  
21 a road map for the hearing schedule for the calendar year  
22 2007 and how Phase I will rollout during the course of the  
23 year.

24 As well, if there are issues arising from  
25 the all counsel meeting this Thursday that need to be

1 adjudicated, we will try and have counsel schedule those  
2 adjudications for the afternoon of the 29<sup>th</sup>, and as soon as  
3 those issues are resolved we will be commencing the  
4 evidence of David Silmser the week of January 29<sup>th</sup>.

5 **THE COMMISSIONER:** Thank you.

6 **MR. ENGELMANN:** Those are my brief comments  
7 and, as I said, we will be on the 29<sup>th</sup> addressing witnesses  
8 that we will be hearing from throughout the spring and many  
9 other issues.

10 Thank you, sir.

11 **THE COMMISSIONER:** Thank you.

12 So before we begin the -- let me just wish  
13 everyone a happy new year and I hope that it brings to you  
14 and yours health and rest, I suppose, during Christmas and  
15 the holidays so that we can resume the hearings.

16 And what I want to do today is complete Mr.  
17 MacDonald's -- or today and tomorrow -- complete Mr.  
18 MacDonald's cross-examination and then on the 29<sup>th</sup> we will  
19 open the new year with an address and some ideas as to  
20 where we are going.

21 Thank you.

22 Mr. Dumais.

23 **MR. DUMAIS:** Thank you, Commissioner.

24 One more house cleaning matter. It's a  
25 matter that arose when Mr. Albert Roy was testifying. I



1 filed a number of documents; one of them which is Exhibit  
2 112. That's correct, and there is correspondence from Mr.  
3 Murray MacDonald addressed to Mr. D.W. Johnson dated  
4 January 16<sup>th</sup>, 1995. This was a piece of correspondence that  
5 was filed at the beginning of Mr. Roy's evidence. This  
6 piece of correspondence was never identified by Mr. Roy or  
7 put to Mr. Roy so I'm simply asking that the record show  
8 that and rather than un-filing the exhibit that the exhibit  
9 be marked as such.

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

11 **MR. DUMAIS:** Otherwise, we can recall Mr.  
12 John MacDonald, for sure.

13 **THE COMMISSIONER:** Thank you for your  
14 report, sir.

15 Madam Clerk. Madam Clerk, could you re-  
16 swear the witness, please?

17 **JOHN MacDONALD, Re-Affirmed/Sous affirmation solennelle:**

18 **THE COMMISSIONER:** Thanks.

19 Good morning, Mr. MacDonald.

20 **MR. MacDONALD:** Good morning.

21 **THE COMMISSIONER:** How are you doing today?

22 **MR. MacDONALD:** Good, and you?

23 **THE COMMISSIONER:** Good.

24 Just a refresher, there is water there. If  
25 at any time you need a break let me know. If there is a

1 question you don't understand or there is something in here  
2 that bothers you, let me know.

3 **MR. MacDONALD:** All right.

4 **THE COMMISSIONER:** Okay, thank you.

5 Mr. Lee, good morning, sir.

6 **MR. LEE:** Good morning, Mr. Commissioner.

7 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE:**

8 **MR. LEE:** Good morning, Mr. MacDonald.

9 **MR. MacDONALD:** Good morning.

10 **MR. LEE:** Just to remind you, my name is  
11 Dallas Lee. I'm counsel for the Victims Group. Last time  
12 you were here I was in the middle of my cross-examination  
13 when we finished.

14 You'll recall that I was trying to go by  
15 institution as we went through your cross-examination. So  
16 we dealt with your interactions with the Diocese of  
17 Alexandria-Cornwall, we dealt a little bit with your  
18 interactions with a lawyer named Sean Adams and I had moved  
19 on to look at some documents detailing your dealings with  
20 the Cornwall Police.

21 Do you recall that?

22 **MR. MacDONALD:** Yes.

23 **MR. LEE:** Before we stop the area that I was  
24 in, we were looking at some police notes and I had showed  
25 you three documents.

1                   The first note that I showed you is now  
2           Exhibit 234, and I'd like to take you there briefly just to  
3           refresh your memory on where we were and so we can all  
4           orient ourselves. These were police notes, Cornwall Police  
5           notes.

6                   **THE COMMISSIONER:** I'm sorry, what's the  
7           exhibit number?

8                   **(SHORT PAUSE/COURTE PAUSE)**

9                   **MR. LEE:** Two-three-four (234).

10                  **THE COMMISSIONER:** Thank you.

11                  **MR. LEE:** And you'll see that this exhibit  
12           is a few pages long. I'm interested in the second page on  
13           the entry dated August 23<sup>rd</sup>, 1995 and specifically within  
14           that entry, about halfway down, there is one that begins  
15           "10:21".

16                   Down a little bit further. That's fine.  
17                   And so I read this to you last time. It  
18           reads:

19                                "10:21 from John MacDonald: Advised  
20                                him of David Silmser's..."

21                  **THE COMMISSIONER:** I'm sorry. I think it  
22           says "to John MacDonald". September 13<sup>th</sup> '95?

23                  **MR. LEE:** No, August 23<sup>rd</sup> '95.

24                  **THE COMMISSIONER:** Sorry, sorry.

25                  **MR. LEE:** It's on the second page of ---

1                   **THE COMMISSIONER:** I see what you're saying.

2                   Okay, good. Sorry. Go ahead.

3                   **MR. LEE:** "10:21 from John MacDonald:

4                                   Advised him of David's Silmser's phone  
5                                   call to me. Told him I wasn't  
6                                   confirming that he was a victim without  
7                                   John's permission. He knows that David  
8                                   is calling and he wants to distance  
9                                   himself from Dave."

10                   Do you recall us reading that note last  
11                   time, sir?

12                   **MR. MacDONALD:** Yes.

13                   **MR. LEE:** And I believe that what you told  
14                   us at that time you explained it as Dave is David and John  
15                   is John; is that correct?

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

17                   **MR. LEE:** And you agreed with me last time  
18                   that there was nothing in this note that in any way spoke  
19                   of the police advising you to stay away from Mr. Silmser  
20                   and not to deal with him; is that correct?

21                   **MR. MacDONALD:** No.

22                   **MR. LEE:** And you don't recall anything  
23                   around that time of that nature of advice?

24                   **MR. MacDONALD:** No.

25                   **MR. LEE:** The next exhibit that I took you

1 to -- and I won't ask you to turn it up -- is Exhibit 237,  
2 and these were more police notes and I asked you a few  
3 questions there and you told me that you didn't know  
4 anything about that document and that you couldn't tell us  
5 anything about it.

6 So we then moved on to another which was  
7 made Exhibit 238, and these are more officer's notes from  
8 the Cornwall Police. And I took you to an entry dated  
9 August 23<sup>rd</sup>, 1995. It's Bates page 7172519. At the top of  
10 the page we have "August 23<sup>rd</sup> '95" in the top left-hand  
11 corner. There it is. And halfway down the page it reads  
12 "I also" -- well, I'll start at the top. It says:

13 "I spoke with Insp. Tim Smith, OPP  
14 Kingston about a recent case involving  
15 an allegation against Father Charlie by  
16 way of letter written by John  
17 MacDonald."

18 And then I presume that's an incident number  
19 or some kind of filing number for the police.

20 "I also advised him that DS was phoning  
21 a number of officers at the Cornwall  
22 Police Station stating 'What are we  
23 going to do about this allegation made  
24 by Mr. MacDonald?'"

25 Do you recall seeing that note?

1                   **MR. MacDONALD:** Do I recall seeing?

2                   **MR. LEE:** Do you recall looking at that note  
3 with me last time, sir?

4                   **MR. MacDONALD:** Yes.

5                   **MR. LEE:** And my understanding was that you  
6 were not made aware of those phone calls at that time. Is  
7 that correct?

8                   **MR. MacDONALD:** No.

9                   **MR. LEE:** You didn't know anything about  
10 this?

11                   **MR. MacDONALD:** No.

12                   **MR. LEE:** Okay. So that's where we left us  
13 last time and this is the area I was going to.

14                   I'd like to take you to a new document you  
15 haven't seen yet, or perhaps you have in-chief. It's  
16 document number 120877. I don't believe you've seen this  
17 document. These are more police notes and they're dated  
18 September 13<sup>th</sup> '95.

19                   **THE REGISTRAR:** One-two-zero-eight-seven-  
20 seven. (120877)

21                   **MR. LEE:** One-two-zero-eight-seven-seven.  
22 (120877).

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

24                   **THE REGISTRAR:** Exhibit 240.

25                   **THE COMMISSIONER:** Two-four-zero (240),

1 thank you.

2 So Exhibit 240 the police officer's notes.  
3 Can you help me, whose -- do you know whose notes they are?

4 **MR. LEE:** Again, sir, I'm not sure. A lot  
5 of the police notes that we have don't clearly identify who  
6 they are from.

7 **THE COMMISSIONER:** Okay.

8 --- EXHIBIT NO./PIECE NO. 240:

9 Handwritten Officer's notes - Author  
10 Unknown - September 13, 1995

11 **MR. LEE:** Do you have that document, Mr.  
12 MacDonald?

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

14 **MR. LEE:** So you can see clearly at the top  
15 you are identified as the topic of the police notes. The  
16 second paragraph of notes reads -- it begins with "to be  
17 informed". Do you see that?

18 **MR. MacDONALD:** Yes.

19 **MR. LEE:** I believe it reads:

20 "To be informed that Carson Chisholm  
21 attended headquarters in a very  
22 belligerent mood with John MacDonald,  
23 insisted we take a statement and lay a  
24 charge immediately on September 12<sup>th</sup>  
25 '95, 3:18 p.m."

1 Do you recall discussing with Mr. Dumais in-  
2 chief that trip to the police station with Mr. Chisholm?

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

4 **MR. LEE:** And I believe you told us that you  
5 did recall that you went to the police station and that  
6 they wouldn't take the statement. Is that correct?

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

8 **MR. LEE:** And you also told us that you  
9 didn't specifically recall Mr. Chisholm's actions at the  
10 police station but I believe you described him and the word  
11 you used was "abrasive". Do you recall telling us that?

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

13 **MR. LEE:** Around this time, around mid-  
14 September 1995 or shortly thereafter, do you recall anyone  
15 at the Cornwall Police Station warning you to stay away  
16 from Carson Chisholm?

17 **MR. MacDONALD:** No.

18 **MR. LEE:** You then discussed a little bit  
19 both in-chief and in the first part of my cross-examination  
20 that you eventually met with Richard Abell from the  
21 Children's Aid Society.

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

23 **MR. LEE:** After the meeting with you or  
24 during the meeting with you, Mr. Abell made notes of that  
25 meeting and I'd like to take you to those notes. Those are



1 documents 703659. I can tell you that this meeting was on  
2 September 25<sup>th</sup>, 1995. Does that sound about right to you?

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

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

5 **THE COMMISSIONER:** So Exhibit 241 will be  
6 the notes from Richard Abell.

7 **MR. LEE:** Thank you.

8 **--- EXHIBIT NO./PIECE NO. 241:**

9 Richard Abell's Handwritten Notes -  
10 September 25, 1995

11 **THE COMMISSIONER:** All right. Go ahead.

12 **MR. LEE:** I'd like to take you first to the  
13 second-last paragraph on that first page, Mr. MacDonald.  
14 It begins "I tell him". It reads:

15 "I tell him it's important he tell the  
16 story directly to the police without  
17 involvement of anyone else (including  
18 me). He agrees; seems to understand  
19 the importance of not contaminating his  
20 story."

21 Is this the first time that anybody had  
22 discussed that issue with you?

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

24 **MR. LEE:** Do you recall anybody before this  
25 time having discussed it with you at this point?

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

2                   **MR. LEE:** Do you recall this conversation  
3 with Mr. Abell?

4                   **MR. MacDONALD:** Not really. It was a long  
5 meeting.

6                   **MR. LEE:** This was a long meeting?

7                   **MR. MacDONALD:** I -- I ---

8                   **MR. LEE:** You do recall having met with him?

9                   **MR. MacDONALD:** I recall having met with  
10 him.

11                   **MR. LEE:** You just don't recall specifics?

12                   **MR. MacDONALD:** That's right, the specifics  
13 of the conversation.

14                   **MR. LEE:** Do you have any reason to doubt  
15 that this was discussed?

16                   **MR. MacDONALD:** No.

17                   **MR. LEE:** The last document I want to take  
18 you to in this area is your own handwritten notes. Those  
19 have been marked Exhibit 204.

20                   **THE COMMISSIONER:** For the purposes of the  
21 record, they have been made an exhibit?

22                   **MR. LEE:** They have; 204.

23                   **THE COMMISSIONER:** Sorry. Sorry.

24                   **MR. LEE:** We can go, I believe to my fourth  
25 page. There's an entry dated November 3<sup>rd</sup>; right below the

1 -- yes, just there.

2 I'm going to read you this entire note.

3 There are some names mentioned in here that I want to make  
4 sure that we don't say. It reads:

5 "Tim Smith returned Lynn's call."

6 Is Lynn your wife, sir?

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

8 **MR. LEE:**

9 "I spoke with him for about 15 minutes.  
10 He stated that they are waiting until  
11 November 23<sup>rd</sup>, after Perry's hearing to  
12 commence with the investigation. Also  
13 told him that we, Dave and I were going  
14 to have a meeting with ..."

15 And there's a name and that name has been  
16 given the moniker C3.

17 "... on Saturday, November 11<sup>th</sup>, to lay  
18 out his options concerning going  
19 forward. He said that we could  
20 jeopardize the case by meeting  
21 together. Also told us, Lynn and I, to  
22 stay away from Dunlop and Co. (said  
23 they have their own agenda)."

24 There's a beginning of a new parentheses and  
25 it looks like the start of the word "didn't" but it runs

1 off. I'm not sure what that says.

2 On the next line:

3 "Mentioned ..."

4 Another name that, Mr. Commissioner, I don't  
5 believe we've dealt with.

6 ... [his name] "...Smith got off phone,  
7 said he'd call back. Many questions  
8 left after this call."

9 And then you list some questions:

10 "What does Perry Dunlop have to do with  
11 this?

12 Why did Smith lie to me about the time  
13 taken so far?

14 Why warning to stay away from Dunlop?

15 How can truth hurt?

16 Why did Fagan lie to Dave?

17 Why did Smith hang up when ... [a name]  
18 was mentioned?

19 Are charges going ahead now that C3 is  
20 in?

21 How can support hurt?"

22 Do you recall that conversation, sir?

23 **MR. MacDONALD:** Not completely; I remember  
24 the gist of the conversation?

25 **MR. LEE:** Do you recall having those sorts

1 of questions after that conversation?

2 **MR. MacDONALD:** Yes.

3 **MR. LEE:** Would you agree with me, sir, that  
4 it appears that you're confused after this phone call?

5 **MR. MacDONALD:** Absolutely.

6 **MR. LEE:** So at this point, being November  
7 of 1995, would you agree with me that it seems that you  
8 still don't understand what the problem is in dealing with  
9 Perry Dunlop or Carson Chisholm or David Silmser?

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

11 **MR. LEE:** So nobody up to this time has  
12 clearly explained to you what problems might arise. Would  
13 you agree with that?

14 **MR. MacDONALD:** No.

15 **THE COMMISSIONER:** Well, just for the  
16 record, would you agree with that?

17 **MR. MacDONALD:** Would I agree with that?  
18 Yes, I would agree with that.

19 **THE COMMISSIONER:** You asked either a double  
20 negative or you put two questions there and so -- for the  
21 record, it would show as if he's not agreeing with you,  
22 when that's not what you wanted ---

23 **MR. LEE:** We don't want that at all.

24 By November of 1995, had anybody clearly  
25 explained to you the problem that you might encounter if

1       you spoke to Perry Dunlop and Carson Chisholm, David  
2       Silmsner?

3                   **MR. MacDONALD:** No.

4                   **MR. LEE:** I'd like to deal with one final  
5       area and I'm sorry to make you jump back. I'm going to ask  
6       you to jump back to Exhibit 241 that was just marked a  
7       minute ago, being Richard Abell's case notes.

8                   Do you have those, sir?

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

10                  **MR. LEE:** In the second paragraph of those  
11       notes this is Richard Abell recounting the meeting with  
12       you, and he writes:

13                   " Said he was up in the air. Didn't  
14                   know why doors are being closed in my  
15                   face. He came from B.C. in July. On  
16                   August 11<sup>th</sup>, wrote to Father Kevin  
17                   Maloney, St. Columban's parish, saying  
18                   he had been sexually abused by Father  
19                   Charlie MacDonald, asking for help.  
20                   His letter given to Cornwall Police.  
21                   They call him to tell him not to talk  
22                   to Father Maloney. He goes in to give  
23                   his statement to CPS. They won't take  
24                   it. He's emotionally exhausted, can't  
25                   understand why no one has so far wanted

1 to hear him out."

2 Do you recall telling Mr. Abell that?

3 **MR. MacDONALD:** Yes.

4 **MR. LEE:** Is that how you felt at the time?

5 **MR. MacDONALD:** Yes.

6 **MR. LEE:** I take it when you're discussing  
7 about Cornwall Police not being willing to take your  
8 statement, that's when you went in with Carson Chisholm  
9 that you're referring to?

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

11 **MR. LEE:** It's safe to say you're frustrated  
12 at this time, sir?

13 **MR. MacDONALD:** Absolutely.

14 **MR. LEE:** Those are my questions as they  
15 relate to the Cornwall Police.

16 I'd briefly like to discuss some of the  
17 interaction you had with the Ontario Provincial Police and  
18 I'd like specifically -- I'm just going to take you to one  
19 document. I'd like to look back to your handwritten notes,  
20 Exhibit 204. I'd like to take you to the second-last page  
21 of those notes. Specifically, there's an entry dated  
22 November 23<sup>rd</sup> and, again, this is 1995.

23 Do you have that, sir?

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

25 **MR. LEE:** I'm going to read it into the

1 record. It reads:

2 "Tim Smith called, said he wouldn't  
3 talk to me anymore. Said that I went  
4 to the press with what he has told me  
5 to date. Any more conversations will  
6 take place through my lawyer. He told  
7 me that he has on tape that I told him  
8 that I wouldn't fight this out in the  
9 press."

10 Do you recall that, sir?

11 **MR. MacDONALD:** Yes.

12 **MR. LEE:** What is this all about?

13 **MR. MacDONALD:** I have a newspaper article  
14 that shows what it's about. I don't know if you guys have  
15 that or not, but I've got it sitting here.

16 **MR. LEE:** I believe we likely have it.  
17 What's the date of that newspaper article?

18 **MR. MacDONALD:** Saturday, November 18<sup>th</sup>,  
19 1995.

20 **MR. LEE:** November 18<sup>th</sup>, 1995?

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

22 **MR. LEE:** I don't have a document number  
23 handy for that, Mr. Commissioner. I don't -- it wasn't a  
24 document, as far as I can tell, that anybody's identified  
25 for cross-examination.



1                   Can you perhaps generally tell us the gist  
2                   of the article and why you believe that relates to this  
3                   phone call from Tim Smith?

4                   **MR. MacDONALD:** I'll give you the headline  
5                   and you'll see from there.

6                   The headline states, "Second Man Claims He  
7                   Was Priest's Victim". In captions underneath, "He says  
8                   police won't investigate until ruling made on Constable  
9                   Dunlop".

10                  **MR. MANSON:** Excuse me, Mr. Commissioner.

11                  **THE COMMISSIONER:** Yes.

12                  **MR. MANSON:** If the witness is referring to  
13                  a document he has. It should be made ---

14                  **THE COMMISSIONER:** It will. It will. What  
15                  we'll do, if all else fails, we'll photocopy it at the  
16                  break and then distribute it out. It will be made ---

17                  **MR. MANSON:** We may have it, if Madam Clerk  
18                  could find the number.

19                  **THE REGISTRAR:** I am trying.

20                  **MR. MANSON:** Thank you.

21                  **MR. LEE:** Does this document relate to you?  
22                  I take it you're the second complainant that it speaks of?

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

24                  **MR. LEE:** Had you spoken to the media around  
25                  that time? Is that how the article was written?

1                   **MR. MacDONALD:** Probably.

2                   **MR. LEE:** Can you tell me -- so on November  
3                   23<sup>rd</sup>, we know that -- would you like to mark that an exhibit  
4                   now, Mr. Commissioner?

5                   **THE COMMISSIONER:** We will. We found it.  
6                   I'm pretty sure that's the one.

7                   Has it been made an exhibit? If not, it  
8                   will be. So it will be Exhibit No. 242, which is an  
9                   article in the Freeholder. What's the date of the article?

10                  **THE REGISTRAR:** November 18<sup>th</sup>, 1995.

11                  **THE COMMISSIONER:** All right.

12                  **--- EXHIBIT NO./PIÈCE NO. P-242:**

13                               Newspaper Article - Second Man Claims  
14                               He Was Priest's Victim - November 18,  
15                               1995

16                  **THE COMMISSIONER:** So let's go back to the  
17                  question. The question was, what did the notation that you  
18                  had in your notes that the officer called you and said he  
19                  wasn't going to deal with you anymore because you went to  
20                  the press. You referred us to this document and Mr. Lee  
21                  can continue from there.

22                  **MR. LEE:** So the newspaper article you've  
23                  referred us to is November 18, '95 and then the note of the  
24                  telephone call from Tim Smith is November 23<sup>rd</sup>?

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

1                   **MR. LEE:** So the phone call was obviously  
2                   about this article; is that your understanding?

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

4                   **MR. LEE:** Do you specifically recall this  
5                   telephone conversation with Tim Smith?

6                   **MR. MacDONALD:** Yes.

7                   **MR. LEE:** Can you explain to us what the  
8                   issue was, why Mr. Smith was upset at what's in this  
9                   article? Do you know?

10                  **MR. MacDONALD:** I think during my -- taking  
11                  my original statement in late September, he had mentioned  
12                  about not going to the press.

13                  When he had told me about that -- no, I  
14                  think that's it. When he told me during videotaping my  
15                  original statement, he had mentioned not going to the  
16                  press.

17                  **MR. LEE:** And then you had spoken with the  
18                  press ---

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

20                  **MR. LEE:** --- sometime for this article.  
21                  And he was upset by that?

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

23                  **MR. LEE:** After this time, did you have  
24                  any more contact with Tim Smith?

25                  **MR. MacDONALD:** No.

1                   **MR. LEE:** Not at all?

2                   **MR. MacDONALD:** No.

3                   **MR. LEE:** Did contact go through your lawyer  
4 or was there just no more contact?

5                   **MR. MacDONALD:** That's right, contact  
6 through my lawyer.

7                   **MR. LEE:** Eventually charges were laid  
8 against Charles MacDonald in response to your complaint.  
9 Is that right?

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

11                  **MR. LEE:** Did you understand at that time  
12 that once the police lay charges, the Crown Attorney  
13 prosecutes those charges?

14                  **MR. MacDONALD:** Yes.

15                  **MR. LEE:** Did you understand at some point  
16 that the Crown Attorney became involved?

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

18                  **MR. LEE:** It's the Crown Attorney that  
19 brings the matter to trial and prosecutes?

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

21                  **MR. LEE:** Do you recall at some point  
22 becoming concerned about the length of time that this  
23 matter was taking?

24                  **MR. MacDONALD:** Yes.

25                  **MR. LEE:** I'd like to take you to another

1 article in the Cornwall Standard-Freeholder dated January  
2 22<sup>nd</sup>, 1999. The document number is 737845. I have a Bates  
3 number listed, so I presume it maybe is a long document.  
4 I'm looking for Bates 7159409.

5 There are a few different articles on this  
6 page, it looks like. I'm interested in the one at the  
7 bottom that reads, "Priest May Face One Trial".

8 **THE COMMISSIONER:** All right. So that will  
9 be Exhibit 243.

10 **--- EXHIBIT NO./PIÈCE NO. P-243:**

11 Newspaper Article - Priest May Face One  
12 Trial - January 22, 1999

13 **MR. LEE:** I can tell you, if we look at the  
14 bottom of the page, beneath that article, in handwriting,  
15 it reads "Standard-Freeholder Friday, Jan. 22, 1999". So  
16 this is a few years after your initial complaint. Is that  
17 correct, sir?

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

19 **MR. LEE:** I'm going to read the first few  
20 paragraphs, just to orient you on what this is discussing.  
21 It's by Frank MacEachern of the Standard-Freeholder and it  
22 reads:

23 "A Roman Catholic priest facing two  
24 series of sex charges may face one  
25 trial instead of two. Reverend Charles

1 MacDonalld, 65, of Glen Robertson is  
2 facing 15 sex-related charges involving  
3 young males. He made a brief  
4 appearance in court Thursday.  
5 MacDonalld was charged in March '96 by  
6 the Ontario Provincial Police with  
7 seven sex offences involving three  
8 former altar boys. Two of those three  
9 complainants are just hoping the trial  
10 is soon."

11 If you move into the right-hand column, the  
12 second full paragraph, it begins a quote and it reads:

13 "I just want to see it go to trial',  
14 said a frustrated John MacDonalld. He's  
15 worried that the length of time getting  
16 the case to trial may result in it  
17 getting tossed out of court."

18 Do you recall telling the Standard-  
19 Freeholder that at the time?

20 **MR. MacDONALD:** Yes.

21 **MR. LEE:** Was that a concern of yours?

22 **MR. MacDONALD:** Absolutely.

23 **MR. LEE:** This is 1999 and the charges were  
24 laid in 1996; is that correct?

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

1                   **MR. LEE:** If we look at the third last full  
2 paragraph of the article, it reads:

3                   "While prosecutor Bob Pelletier declined to  
4 make any comment on the time factor, he said  
5 putting the two groups of charges together  
6 is the most efficient."

7                   And prosecutor Bob Pelletier was the Crown  
8 Attorney, is that correct?

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

10                  **MR. LEE:** We have another document that you  
11 likely wouldn't have seen before. It is document 113847.

12                  **THE COMMISSIONER:** So Exhibit No. 244 is a  
13 letter addressed -- dated April 19<sup>th</sup>, 2000, addressed to Mr.  
14 James Stewart from Shelly Hallett.

15                  **--- EXHIBIT NO./PIÈCE NO. P-244:**

16                                 Letter from Shelly Hallett to Mr. James  
17                                 M. Stewart - April 19, 2000

18                  **THE COMMISSIONER:** Sorry.

19                  **MR. LEE:** So Mr. MacDonald, as the  
20 Commissioner said, this is a letter from the Crown Attorney  
21 Shelly Hallett to the Director of Crown Operations, James  
22 Stewart and this is in April of 2000.

23                                 She begins by saying:

24   "On April 18<sup>th</sup>, I spoke to the case of  
25   Charles MacDonald in the Superior Court

1 in Cornwall before Justice Desmarais."

2 And if we skip the next paragraph and go  
3 down to the last paragraph on that first page, it reads:

4 "Justice Desmarais considered the trial  
5 date unrealistic in view of the above-  
6 mentioned factors. Michael Neville,  
7 for the defence, so being Charles  
8 MacDonald's lawyer, did not protest the  
9 judge's opinion that an adjournment was  
10 required, but I suspect he will attempt  
11 to use the delay to support an  
12 application for a stay under section  
13 11(b) of the Charter at some later  
14 time. I am trusting that the unique  
15 features of this case, characterized by  
16 Neville himself in yesterday's  
17 proceedings as 'too complicated to  
18 begin to address' will ultimately  
19 prevent a stay on the basis of delay."

20 Have you ever seen this letter before?

21 **Mr. MacDONALD:** About a week ago.

22 **MR. LEE:** So during this inquiry process ---

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

24 **MR. LEE:** --- was about the time.

25 Did you ever have a meeting with the Crown,



1 or receive correspondence from the Crown I suppose,  
2 explaining this to you ---

3 **MR. MacDONALD:** No.

4 **MR. LEE:** --- at the time?

5 **MR. MacDONALD:** No.

6 **MR. LEE:** Do you recall having a meeting  
7 with the Crown where the issue of delay and of a possible  
8 stay of charges was explained to you?

9 **MR. MacDONALD:** No.

10 **MR. LEE:** In 1999, we just saw a newspaper  
11 article where you tell the press that you are worried about  
12 it being "tossed", I think was the language you used.

13 How did you know about that? How did you  
14 have any idea that that was a possibility?

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

16 **MR. LEE:** Just one of those things?

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

18 **MR. LEE:** The last document that I would  
19 like to take you to again is -- oh, no, sorry, this is not  
20 what you have seen before. It is document 110818.

21 And I can tell you that these are  
22 handwritten notes made on Tuesday, February 26, 2002.

23 **THE COMMISSIONER:** By whom; any idea?

24 **MR. LEE:** That was going to be my first  
25 question to Mr. MacDonald.

1                   Mr. MacDonald, this is a meeting. The first  
2 line of the document says that it was a meeting in the  
3 Lancaster OPP Detachment and clearly there's a Crown  
4 Attorney present.

5                   Do you know who the Crown Attorney would  
6 have been at that time that you would have met with?

7                   **THE COMMISSIONER:** I'm sorry. Did we get  
8 an answer there?

9                   **MR. LEE:** Not yet, no.

10                  **MR. MacDONALD:** No, no, I can't recall who  
11 was there.

12                  **MR. LEE:** Do you ---

13                  **MR. MacDONALD:** I vaguely remember the  
14 meeting.

15                  **MR. LEE:** You recall having a meeting with  
16 the Crown Prosecutor ---

17                  **MR. MacDONALD:** I remember travelling to  
18 Lancaster, yes, for a meeting.

19                  **MR. LEE:** It would appear to me, obviously,  
20 that the person who was at that meeting took these notes.  
21 Is that correct?

22                  **MR. LEE:** Joe Dupuis.

23                  **MR. LEE:** You believe these are Joe Dupuis'  
24 notes, or ---

25                  **MR. MacDONALD:** Yes.

1                   **MR. LEE:** --- do you believe these are the -  
2                   --

3                   **MR. MacDONALD:** Yes ---

4                   **MR. LEE:** --- Crown's notes.

5                   **MR. MacDONALD:** --- yes, I know he was  
6                   there.

7                   **MR. LEE:** Okay.

8                   **MR. MacDONALD:** I don't recall the Crown who  
9                   was there, or if there was a Crown there.

10                  **MR. LEE:** Okay.

11                  **THE COMMISSIONER:** Okay, so we are referring  
12                  to this exhibit as 245.

13                  **MR. LEE:** Two-four-five (245)?

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

15                  **---EXHIBIT NO./PIÈCE NO. P-245:**

16                               Document No. 110818: Handwritten Notes made  
17                               from Meeting held at OPP Detachment,  
18                               Lancaster, Tuesday, February 26, 2002.

19                  **MR. LEE:** What I'm interested in --  
20                  obviously you met with somebody, I'll agree with that, on  
21                  this date at the Lancaster OPP Detachment?

22                  **MR. MacDONALD:** Yes.

23                  **MR. LEE:** And the second bullet point I  
24                  suppose -- I believe it reads -- and please follow along  
25                  with me and let me know if you agree with my reading of it:

1 "Pre-trial Motions / We expect delay to  
2 be an issue. MacDonald may have to  
3 testify twice."

4 **MR. LEE:** Does that appear to be what that  
5 says, sir?

6 **MR. MacDONALD:** That looks like what it  
7 says, yes.

8 **MR. LEE:** And if we go down three more  
9 bullets, it begins:

10 "His concerns / Being tossed on  
11 something stupid or time re-delay."

12 **MR. LEE:** Does that appear to be what that  
13 says there?

14 **MR. MacDONALD:** Yes.

15 **MR. LEE:** And my interpretation of that  
16 document, sir, is likely that "his concerns" is referring  
17 to your concerns.

18 **MR. MacDONALD:** It ---

19 **MR. LEE:** Is that right?

20 **MR. MacDONALD:** --- it looks that way.

21 **MR. LEE:** "John MacDonald" is written with a  
22 few underlines at the top of the page and this is clearly  
23 notes of a meeting with you?

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

25 **MR. LEE:** Do you recall still being

1 concerned in February of 2002 about -- as it reads there --  
2 this being tossed?

3 MR. MacDONALD: Yes.

4 MR. LEE: So as early as 1999, we've looked  
5 at a newspaper article where you're telling the media that  
6 you're worried about the time this is taking.

7 Is that correct?

8 MR. MacDONALD: That's correct.

9 MR. LEE: And then here we are in 2002 and  
10 you're still worried about the time ---

11 MR. MacDONALD: That's true.

12 MR. LEE: --- this is taking.

13 MR. MacDONALD: That's correct.

14 MR. LEE: And based on what we've seen here,  
15 you're making your concerns known in 1999 about it.

16 MR. MacDONALD: That's correct.

17 MR. LEE: You're making your concerns known  
18 in 2002.

19 MR. MacDONALD: That's correct.

20 MR. LEE: And then ultimately, sir, what  
21 happened to the charges against Father MacDonald?

22 MR. MacDONALD: My worst fear came to life.

23 MR. LEE: They were tossed.

24 MR. MacDONALD: That's right.

25 MR. LEE: Mr. MacDonald, those are all the

1 questions I have for you.

2 I would like to very much thank you for  
3 being here and for your time.

4 **MR. MacDONALD:** Thanks.

5 **THE COMMISSIONER:** Thank you.

6 I will call on Mr. Chisholm.

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

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

10 **MR. CHISHOLM:** Good morning, Mr. MacDonald.

11 As you know, my name is Peter Chisholm. I  
12 am counsel for the local CAS.

13 I have no questions for you.

14 **MR. MacDONALD:** Oh.

15 **MR. CHISHOLM:** Thank you for coming to  
16 testify today.

17 **THE COMMISSIONER:** Thank you.

18 Mr. Neuberger?

19 **MR. NEUBERGER:** No questions, thank you very  
20 much.

21 **THE COMMISSIONER:** Thank you.

22 So for the Ministry of the Attorney General?

23 **MR. DUMAIS:** Actually, Commissioner, I did  
24 have some exchange of correspondence with Ms. Leslie  
25 McIntosh and she advised that she would be here this

1 morning at eleven and I advised her that if her turn came  
2 around that we would skip over and wait for her arrival.

3 **THE COMMISSIONER:** All right.

4 And so Ms. Makepeace?

5 **MS. MAKEPEACE:** No questions.

6 **THE COMMISSIONER:** Thank you.

7 Mr. David Sherriff-Scott?

8 **MR. SHERRIFF-SCOTT:** Yes, just a moment, Mr.  
9 Commissioner.

10 Mr. Commissioner, just considered the issue  
11 of whether it's appropriate for the counsel for Mr.  
12 MacDonald to cross-examine before the institutional  
13 response.

14 **THE COMMISSIONER:** Oh yes. I'm sorry, I ---

15 **MR. SHERRIFF-SCOTT:** No, no, there is  
16 nothing. Just you were following the usual order and I  
17 think that's the order that is appropriate and ---

18 **THE COMMISSIONER:** But I see there's a  
19 gentleman there that I don't know. I don't ---

20 **MR. SHERRIFF-SCOTT:** Yes, he's one of the  
21 lawyers for Mr. MacDonald.

22 **THE COMMISSIONER:** Oh, I'm sorry.

23 **MR. SHERRIFF-SCOTT:** No, that's all right.

24 **THE COMMISSIONER:** I'm sorry.

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

1                   **MR. ERTEL:** May I introduce myself, Mr.  
2                   Commissioner?

3                   **THE COMMISSIONER:** Sure.

4                   **MR. ERTEL:** My name is Mark Ertel, E-R-T-E-  
5                   L, and I appear this morning on behalf of Father MacDonald.  
6                   I, frankly, thought I would be cross-examining after the  
7                   Attorney General completed their cross-examination and  
8                   realized this was going to arise.

9                   I guess I'm in your hands. I could begin my  
10                  cross-examination but I thought because of Father  
11                  MacDonald's special interest in the thing that it would  
12                  make sense for me to go after the Attorney General. It  
13                  might limit somewhat what questions I had to ask. But  
14                  anyway, I'll leave it up to you.

15                  I gather the Attorney General would be in a  
16                  position to cross-examine in twenty minutes or something  
17                  like that.

18                  **THE COMMISSIONER:** Any comments?

19                  We could take the morning break now and then  
20                  go through.

21                  **MR. ERTEL:** Thank you.

22                  **MR. DUMAIS:** I think Ms. McIntosh advised me  
23                  that she was expecting to be in at around eleven and she  
24                  should be here at five after eleven. That was her  
25                  expectation. She's taken the train this morning.



1                   **THE COMMISSIONER:** Okay. But, Mr. Ertel,  
2                   you would prefer to go after her?

3                   **MR. ERTEL:** Yes. I've actually -- I frankly  
4                   prefer to go after her and, actually, based on the  
5                   scheduling as it was revealed to me, I didn't think I would  
6                   be up this early, frankly, and I would like to speak to Mr.  
7                   Sherriff-Scott briefly before my cross-examination as well  
8                   if possible.

9                   **THE COMMISSIONER:** All right.

10                                 Well, let's take the morning break and  
11                   we'll come back at ten after eleven.

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

14                                 The hearing will resume at 11:10.

15                   --- Upon recessing at 10:40 a.m. /

16                                 L'audience est suspendue à 10h40

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

18                                 L'audience est reprise à 11h17

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

21                                 This hearing of the Cornwall Public Inquiry  
22                   is now in session. Please be seated. Veuillez vous  
23                   asseoir.

24                   **THE COMMISSIONER:** So have we agreed on an  
25                   order?

1                   **MS. McINTOSH:** I haven't had discussions  
2 with anyone else, sir, but I was told that I was up next  
3 and I'm happy to oblige since I've managed to delay things  
4 this morning, for which I apologize.

5                   **THE COMMISSIONER:** No, that's fine. You  
6 gave forewarning so that was good.

7                   Has there been an agreement or -- I'm sorry,  
8 Ms. McIntosh, it's just that on my list it would be Mr.  
9 Bennett from The Men's Project. He's not here. Then it  
10 would be lawyers for Father Charles MacDonald. So have we  
11 ---

12                   **THE COMMISSIONER:** Yes. That's rule number  
13 one. You have to come up to the mike.

14                   **MR. ERTEL:** That's good. One thing I've  
15 never been that good at is rules, Mr. Commissioner.  
16 Everyone here knows that, probably except for you.

17                   As I understand it, I'm going to go after  
18 the Attorney General. My understanding was Mr. Sherriff-  
19 Scott was going to go after that, but I'm not sure what the  
20 rest of the order is.

21                   **THE COMMISSIONER:** Is that an agreement,  
22 though?

23                   **MR. ERTEL:** I gather it's been agreed.  
24 Well, can I say that it's been agreed? Everyone's nodding  
25 that I can. It's been agreed, sir.

1                   **THE COMMISSIONER:** Okay, fine. That's good,  
2                   thank you.

3                   **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

4                   **McINTOSH :**

5                   **MS. McINTOSH:** Mr. MacDonald, my name is  
6                   Leslie McIntosh, and I act for the Ministry of the Attorney  
7                   General, and I apologize to you for keeping you waiting  
8                   today.

9                   I have questions just in two discrete areas  
10                  from last day.

11                  On the last day in December, you testified  
12                  that you recalled a meeting with the Crown at which the  
13                  reasoning behind joining further charges to the charges in  
14                  your case was explained. Is that correct?

15                  **MR. MacDONALD:** I agreed to that statement?

16                  **MS. McINTOSH:** Yes. That's the way the  
17                  transcript reads, as I understand it.

18                  **THE COMMISSIONER:** He didn't agree to  
19                  whether or not they should be joined or not.

20                  **MS. McINTOSH:** That's right.

21                  **THE COMMISSIONER:** You just agreed that you  
22                  had ---

23                  **MR. MacDONALD:** That a meeting took place?

24                  **THE COMMISSIONER:** That's right.

25                  **MR. MacDONALD:** I agree that a meeting took

1 place.

2 **MS. McINTOSH:** Yes.

3 Do you remember which Crown it was with whom  
4 you had that meeting?

5 **MR. MacDONALD:** No.

6 **MS. McINTOSH:** All right.

7 And you testified that you don't recall the  
8 specifics of the explanation. Is that correct?

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

10 **MS. McINTOSH:** Right. But you did say, I  
11 think, in response to a question from the Commissioner that  
12 you were not satisfied with the explanation. And am I  
13 understanding correctly that you're saying you were not  
14 happy with the decision to consolidate the charges?

15 **MR. MacDONALD:** I said that again in  
16 transfer?

17 **MS. McINTOSH:** You said you were not  
18 satisfied with the explanation, and I'm trying to find out  
19 what you mean by that. I'm asking if you meant that you  
20 were not happy with the decision to consolidate?

21 **MR. MacDONALD:** That our charges weren't  
22 going forward on their own or ---

23 **MS. McINTOSH:** Yes.

24 **MR. MacDONALD:** Then I wouldn't have been  
25 happy with the explanation, that's right. I wouldn't have

1           been happy with any explanation.

2                       **MS. McINTOSH:** Okay. You were not happy  
3           that the charges were being consolidated with other  
4           charges?

5                       **MR. MacDONALD:** As stated just a little  
6           earlier, I was worried about time for quite a few years.

7                       **MS. McINTOSH:** Okay. And did you say so at  
8           the time to the Crown with whom you had the meeting or is  
9           it looking back on it now that you ---

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

11                      **MS. McINTOSH:** All right.

12                      Did you understand at the time or now even  
13           that, you know, while there was a risk of delay there was  
14           also perhaps a greater likelihood of conviction if the  
15           charges were joined together?

16                      **MR. MacDONALD:** Do I understand that now?

17                      **MS. McINTOSH:** Then or now, yes.

18                      **MR. MacDONALD:** It's pretty hard to make me  
19           understand anything now.

20                      **MS. McINTOSH:** All right.

21                      And also when you said then -- you don't  
22           recall then whether you did object to the charges being  
23           joined at the time?

24                      Is that correct?

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

1                   **MS. McINTOSH:** All right.

2                   So when you said on the last day to Mr.  
3                   Dumais that your opinion wasn't welcomed with respect to  
4                   this issue, are you saying that you just felt the decision  
5                   had already been made? Is that really what you're saying?

6                   **MR. MacDONALD:** Probably. I felt like an  
7                   outsider looking in.

8                   **MS. McINTOSH:** All right.

9                   Now, the second area that I wanted to talk  
10                  to you about was about Mr. Pelletier being replaced by Ms.  
11                  Hallett. You testified on the last day that that was not a  
12                  concern to you at the time.

13                  Is that correct?

14                  **MR. MacDONALD:** Probably.

15                  **MS. McINTOSH:** All right.

16                  And you also told Mr. Dumais that you had  
17                  however recently -- in other words, as I understood it  
18                  before the last day of testimony -- read some  
19                  correspondence that showed that Mr. Pelletier was aware  
20                  that he may have had a conflict of interest as early as  
21                  February of 1997.

22                  I take it that was some correspondence that  
23                  Mr. Dumais showed you in preparation for your cross-  
24                  examination here.

25                  Is that correct?

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

2                   **MS. McINTOSH:** All right.

3                   And you said on the last day that you  
4                   believed that correspondence was dated February 27<sup>th</sup> of  
5                   1997?

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

7                   **MS. McINTOSH:** But Mr. Dumais subsequently  
8                   showed you our Exhibit 228. Do you have that there, Mr.  
9                   MacDonald?

10                   Do you need a document number, Madam Clerk?

11                   And he actually showed you Bates page number  
12                   1069951, and I think this is -- I think you identified this  
13                   on the last day as the correspondence you were referring to  
14                   when you made that statement. Is that correct?

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

16                   **MS. McINTOSH:** And we now know that that  
17                   correspondence is dated April 2<sup>nd</sup>, I think it is, of '97 and  
18                   not February 27<sup>th</sup>.

19                   So I take it you'd agree with me that that's  
20                   correct?

21                   **MR. MacDONALD:** Correct.

22                   **MS. McINTOSH:** So it would appear then that  
23                   Mr. Pelletier identified a conflict of interest after the  
24                   first date in the preliminary inquiry in your charges,  
25                   which was February 24<sup>th</sup> of 1997?

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

2                   **MS. McINTOSH:** All right.

3                   And just looking at that page that we've got  
4 up on the screen, the passage that you agreed you were  
5 referring to is that paragraph beginning:

6                                 "...ultimately a decision will have to  
7 be taken."

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

9                   **MS. McINTOSH:** The conflict identified in  
10 that paragraph is whether Mr. Pelletier should be the one  
11 making a recommendation with respect to laying further  
12 charges against Father MacDonald in the case of two other  
13 complainants; is that correct, is that the way you read  
14 that?

15                   **MR. MacDONALD:** That's not the way I read  
16 it.

17                   **MS. McINTOSH:** How do you read that  
18 paragraph?

19                   **MR. MacDONALD:** I just read the last two  
20 sentences as being that he's claiming a possible conflict  
21 in relation to Murray McDonald.

22                   **MS. McINTOSH:** Okay. But the issue -- the  
23 issue, and I just suggest this to you and you're free to  
24 disagree obviously, but the issue that he's asking for  
25 guidance from his superior on is the question of whether or



1 not he should be the one to advise the police about further  
2 charges in relation to these two new complainants. Do you  
3 agree with that?

4 **MR. MacDONALD:** I'll need you to repeat that  
5 question, please.

6 **MS. McINTOSH:** All right.

7 I'm suggesting that the issue that he's  
8 asking for guidance from his superior on is the question as  
9 to whether he should be the one to advise the police on  
10 recommending further charges in the case of these two new  
11 complainants.

12 **MR. MacDONALD:** That only raises another  
13 question though.

14 **MS. McINTOSH:** All right.

15 Well, we can all read so I guess we'll read  
16 it for ourselves.

17 The point I'm getting at, Mr. MacDonald, is  
18 that Mr. Pelletier was not here in this correspondence  
19 identifying any problem with him continuing in your case,  
20 at this time. Do you agree with that?

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

22 **MS. McINTOSH:** All right.

23 And, indeed however, Mr. Pelletier did act  
24 at the second day of the preliminary inquiry in your case  
25 in September of 1997; is that correct?

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

2                   **MS. McINTOSH:** Those are my questions.

3                   Thank you.

4                   **MR. MacDONALD:** Thank you.

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

6                   **ERTEL:**

7                   **MR. ERTEL:** Sir, my name is Ertel and I'm  
8                   here on behalf of Father MacDonald. I have a few questions  
9                   for you.

10                   A theme that came up in your preliminary  
11                   inquiry and also in discoveries, you'll agree, was your  
12                   ability to recall the dates that things happened, is that -  
13                   --

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

15                   **MR. ERTEL:** --- is that fair?

16                   So that at various times you gave evidence  
17                   under oath or gave a statement, a sworn statement under  
18                   oath that you became an altar boy in either 1968 or 1969 or  
19                   1970. Is that accurate?

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

21                   **MR. ERTEL:** And each time you were trying to  
22                   do your best and give the best -- and give the date as  
23                   accurately as you possibly could, right?

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

25                   **MR. ERTEL:** And it's something that you have

1 a great deal of difficulty with, recalling dates.

2 MR. MacDONALD: That's correct.

3 MR. ERTEL: And as far as your sobriety  
4 goes, I gather, even you've had difficulty remembering when  
5 you became sober.

6 MR. MacDONALD: That's right.

7 MR. ERTEL: So that at one point you said  
8 that it happened in 1985 and at another point you said it  
9 happened in 1986.

10 MR. MacDONALD: That's correct.

11 MR. ERTEL: Is that accurate?

12 MR. MacDONALD: That's right.

13 MR. ERTEL: And I gather you're still not  
14 sure about all these years now?

15 MR. MacDONALD: That's correct.

16 MR. ERTEL: So that even, whatever your last  
17 answer is that you gave in the last proceeding; for  
18 example, in the preliminary inquiry or something like that,  
19 even those answers as far as dates go, you wouldn't be sure  
20 about those even now?

21 MR. MacDONALD: I don't know, it depends on  
22 what you're talking about.

23 MR. ERTEL: Well, the date you became -- the  
24 year you became an altar boy for example.

25 MR. MacDONALD: Still couldn't recall today.

1                   **MR. ERTEL:** It would be hard, really, for  
2                   you to give an estimate that was -- you'd have to say that  
3                   it was some time between 1968 and 1971 that you became an  
4                   altar boy.

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

6                   **MR. ERTEL:** And you really couldn't narrow  
7                   it down any more than that?

8                   **MR. MacDONALD:** No, I couldn't.

9                   **MR. ERTEL:** And as far as when you got your  
10                  -- became sober, I gather it was some time in the mid  
11                  1980s?

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

13                  **MR. ERTEL:** It could have been '85, '86,  
14                  maybe even '87, is that ---

15                  **MR. MacDONALD:** No, it's '85 or '86.

16                  **MR. ERTEL:** Oh, it's either '85 or '86?

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

18                  **MR. ERTEL:** Okay. And I gather that -- from  
19                  reading over your evidence that it would have been some  
20                  time in the period after whenever it is you became sober  
21                  that you first disclosed some allegations about Father  
22                  MacDonald?

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

24                  **MR. ERTEL:** And that was to a counsellor?

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

1                   **MR. ERTEL:** And his name was?

2                   **MR. MacDONALD:** Malcolm Derrig.

3                   **MR. ERTEL:** And this Malcolm Derrig fellow,  
4 he became a good friend of yours, did he?

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

6                   **MR. ERTEL:** And did you stay in contact with  
7 him over the years?

8                   **MR. MacDONALD:** Yes.

9                   **MR. ERTEL:** And when would have been the  
10 last time you had any contact with him?

11                   **MR. MacDONALD:** I'm not sure.

12                   **MR. ERTEL:** It's really impossible to say.

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

14                   **MR. ERTEL:** For a period of time you were  
15 living out west, did you have any contact with him then,  
16 when you were living out west?

17                   **MR. MacDONALD:** Probably.

18                   **MR. ERTEL:** Okay. And when you say  
19 probably, that means it's more likely than not that you had  
20 contact with him, right?

21                   **MR. MacDONALD:** It's highly possible.

22                   **MR. ERTEL:** Okay. But maybe you didn't have  
23 contact with him?

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

25                   **MR. ERTEL:** Okay. So -- and when was it

1           that you left Cornwall?

2                            You don't know that either, do you?

3                            **MR. MacDONALD:** No, '91 I believe.

4                            **MR. ERTEL:** Okay. And so you may or may not  
5           have had contact with this Malcolm fellow in the two or  
6           three years after you were sober, while you were still on  
7           Cornwall?

8                            **MR. MacDONALD:** Oh, I definitely had contact  
9           with him in the first two or three years of sobriety.

10                           **MR. ERTEL:** Okay. And I gather during that  
11           period of time you must have discussed the allegations that  
12           you'd made against Father MacDonald?

13                           **MR. MacDONALD:** Once.

14                           **MR. ERTEL:** So the only time that you ever  
15           discussed with him the allegations against Father MacDonald  
16           was when you were in, I guess, Step 5 of your recovery, is  
17           that ---

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

19                           **MR. ERTEL:** And that Step 5 of your recovery  
20           requires you, I guess, to bare your soul to the person who  
21           is sponsoring you in Alcoholics Anonymous, is that ---

22                           **MR. MacDONALD:** Not necessarily, a person.

23                           **MR. ERTEL:** Okay. In this particular case  
24           the person who was sponsoring you?

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

1                   **MR. ERTEL:** Okay. And that probably  
2 happened in either 1986 or 1987, as you recall it?

3                   **MR. MacDONALD:** Yes.

4                   **THE COMMISSIONER:** Was that in the period of  
5 sobriety?

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

7                   **THE COMMISSIONER:** Sorry, okay, go ahead.

8                   **MR. ERTEL:** Just following up on the  
9 Commissioner's question, the first thing that you do is you  
10 go to a treatment; this is at Mount Carmel, right?

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

12                   **MR. ERTEL:** And when you go to that  
13 treatment, at Mount Carmel, then there's some -- it's six  
14 weeks or something is it?

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

16                   **MR. ERTEL:** And then there's some after-care  
17 after that or something.

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

19                   **MR. ERTEL:** And I gather it's in this after-  
20 care period, after that that you go through these steps,  
21 including Step 5?

22                   **MR. MacDONALD:** Not necessarily.

23                   **MR. ERTEL:** No, in your particular case?

24                   **MR. MacDONALD:** It would be some time after  
25 my sobriety that ---

1                   **MR. ERTEL:** Okay. Did you disclose it to  
2                   him?

3                   **MR. MacDONALD:** It's not a set course, you  
4                   know.

5                   **MR. ERTEL:** Do you know what your course  
6                   was?

7                   **MR. MacDONALD:** When I felt I could trust  
8                   Mac Derrig enough.

9                   **MR. ERTEL:** Right, when was that?

10                  **MR. MacDONALD:** I don't know. This was  
11                  about a year after.

12                  **MR. ERTEL:** Okay. And when you say about a  
13                  year, that's an estimate, right?

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

15                  **MR. ERTEL:** Bearing in mind your extreme  
16                  difficulty with recalling dates, right?

17                  **MR. MacDONALD:** I suppose.

18                  **MR. ERTEL:** It might have been -- it might  
19                  have been while you were still at Mount Carmel during the  
20                  six-week period?

21                  **MR. MacDONALD:** No.

22                  **MR. ERTEL:** Okay. So it was some time after  
23                  that, right?

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

25                  **MR. ERTEL:** Whenever that was.



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

2                   **MR. ERTEL:** Right.

3                   And this Malcolm Derrig, did you know that  
4 he was a friend of Father MacDonald's?

5                   **MR. MacDONALD:** No.

6                   **MR. ERTEL:** Did you know that Father  
7 MacDonald was a Chaplin at Mount Carmel and he counselled  
8 people at Mount Carmel?

9                   **MR. MacDONALD:** No.

10                  **MR. ERTEL:** So in the entire time that you  
11 were there you never saw Father MacDonald there?

12                  **MR. MacDONALD:** No.

13                  **MR. ERTEL:** And you have never, at any point  
14 in your life, become aware of the fact that he was  
15 counselling people at Mount Carmel during the period of  
16 time that you were making these disclosures to Mr. ---

17                  **MR. MacDONALD:** I heard that at some time.

18                  **MR. ERTEL:** --- to Mr. Derrig. So you heard  
19 that?

20                  **MR. MacDONALD:** At some time.

21                  **MR. ERTEL:** Do you know when you heard that?

22                  **MR. MacDONALD:** No.

23                  **MR. ERTEL:** Do you know where you heard  
24 that?

25                  **MR. MacDONALD:** No.

1                   **MR. ERTEL:** Do you know who told you that?

2                   **MR. MacDONALD:** No.

3                   **MR. ERTEL:** But at some point in time you  
4 became aware of that?

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

6                   **MR. ERTEL:** That Father MacDonald, the  
7 person who you had made allegations against, during your  
8 recovery from alcoholism and drug abuse, was actually a  
9 counsellor at the place where you recovered from alcoholism  
10 and drug abuse?

11                   **MR. MacDONALD:** And counselling?

12                   **MR. ERTEL:** Yes, or a chaplin.

13                   **MR. MacDONALD:** I heard that.

14                   **MR. ERTEL:** And he was a friend of Mr.  
15 Derrig's.

16                   **MR. MacDONALD:** So he states.

17                   **MR. ERTEL:** So who states?

18                   **MR. MacDONALD:** Charles MacDonald.

19                   **MR. ERTEL:** Did -- is that -- did Charles  
20 MacDonald tell you that he was a friend of Malcolm  
21 Derrig's?

22                   **MR. MacDONALD:** I questioned him during the  
23 Criminal Injuries Compensation Hearing.

24                   **MR. ERTEL:** Okay. And he revealed to you at  
25 the Criminal Injuries Compensation Board Hearing that in

1 fact he was friends with the fellow that you disclosed your  
2 allegations to?

3 MR. MacDONALD: Actually, he said a very  
4 close friend.

5 MR. ERTEL: Did that catch you by surprise?

6 MR. MacDONALD: At that time?

7 MR. ERTEL: Yes.

8 MR. MacDONALD: No, I had heard previous to  
9 that.

10 MR. ERTEL: Okay.

11 MR. MacDONALD: That this is what he was  
12 stating.

13 MR. ERTEL: Okay. And you had heard that  
14 from someone somewhere, but you don't know who it was?

15 MR. MacDONALD: That's correct.

16 MR. ERTEL: And obviously it would strike  
17 you as something -- as somewhat odd that Mr. Derrig might  
18 have had a disclosure from you about abuse by Father  
19 MacDonald and that Mr. Derrig wouldn't do anything to stop  
20 Father MacDonald from continuing in his ---

21 MR. MacDONALD: Can you repeat that?

22 MR. ERTEL: It must have struck you as odd -  
23 --

24 MR. MacDONALD: No.

25 MR. ERTEL: --- that Mr. -- it didn't strike

1           you as odd?

2                       **MR. MacDONALD:** No.

3                       **MR. ERTEL:** So it made sense to you that Mr.  
4 Derrig would become aware that you were making allegations  
5 of abuse against Father MacDonald and not do anything about  
6 the fact that Father MacDonald was involved in your  
7 recovery of alcoholics and drug addicts at Mount Carmel?

8                       **MR. MacDONALD:** So did it strike me odd?

9                       **MR. ERTEL:** Yes.

10                      **MR. MacDONALD:** No.

11                      **MR. ERTEL:** And I gather it didn't surprise  
12 you that he was friends with Malcolm Derrig?

13                      **MR. MacDONALD:** So -- so Father MacDonald  
14 says.

15                      **MR. ERTEL:** Well, you don't believe that?

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

17                      **MR. ERTEL:** Okay. This -- having disclosed  
18 this to Malcolm Derrig, I gather as far as you know,  
19 nothing ever comes of it, certainly nobody ever approaches  
20 you and says Malcolm Derrig has just revealed that you've -  
21 --

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

23                      **MR. ERTEL:** --- made allegations of abuse  
24 against Father MacDonald.

25                      **MR. MacDONALD:** That's correct, nobody ever

1 approached me.

2 MR. ERTEL: And as far as you know, this  
3 Malcolm Derrig fellow never disclosed this information to  
4 anyone?

5 MR. MacDONALD: He wouldn't.

6 MR. ERTEL: Okay. And you're saying now  
7 that he wouldn't because he's not supposed to because it  
8 was Step 5 of the Alcoholics Anonymous recovery program?

9 MR. MacDONALD: That's correct.

10 MR. ERTEL: And having disclosed it to him I  
11 gather -- well, do you know when he died, Malcolm Derrig?

12 MR. MacDONALD: No.

13 MR. ERTEL: Okay. That would be another  
14 year that would be impossible for you to remember?

15 MR. MacDONALD: That would be it.

16 MR. ERTEL: Did you become aware soon after  
17 he died or is it something you just found out years later  
18 that he was dead?

19 MR. MacDONALD: Somebody called me out west  
20 or I had called somebody from out west and they had  
21 informed me that he had died.

22 MR. ERTEL: Okay, so it was while you were  
23 still living out west?

24 MR. MacDONALD: That's correct.

25 MR. ERTEL: And certainly well before you

1 made the disclosure that you made to Father Maloney in the  
2 letter that you wrote to him?

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

4 **MR. ERTEL:** And Father Maloney I gather is  
5 the next person that you made some disclosure to?

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

7 **MR. ERTEL:** And in your disclosure to Father  
8 Maloney I gather it's quite possible that you even got the  
9 date that you sobered up wrong?

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

11 **MR. ERTEL:** Because that you said was 1985  
12 and it might have been 1986 or something?

13 **MR. MacDONALD:** Yes.

14 **MR. ERTEL:** And it could have been any time  
15 during any of those two years?

16 **MR. MacDONALD:** September 2<sup>nd</sup>.

17 **MR. ERTEL:** Of one year?

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

19 **MR. ERTEL:** So you remember the date but not  
20 the year?

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

22 **MR. ERTEL:** Okay. And this disclosure that  
23 you made to Father Maloney involved, I guess -- well, I  
24 gather you're now saying that there were three events that  
25 Father MacDonald was involved in?

1                   **MR. MacDONALD:** Yes, that's correct.

2                   **MR. ERTEL:** But the initial disclosure that  
3 you made to Father Maloney dealt with two events?

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

5                   **MR. ERTEL:** And it was some time later,  
6 then, that there was a third event that you revealed at  
7 some point?

8                   **MR. MacDONALD:** In my statement?

9                   **MR. ERTEL:** Yes.

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

11                  **MR. ERTEL:** There was nothing like that in  
12 your letter to Father Maloney?

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

14                  **MR. ERTEL:** But I gather you were trying to  
15 be accurate when you were reporting this to Father Maloney?

16                  **MR. MacDONALD:** Accurate as far as what?

17                  **MR. ERTEL:** Well, were you trying to be  
18 accurate when you were describing to Father Maloney the  
19 abuse that you had suffered at the hands of Father  
20 MacDonald?

21                  **MR. MacDONALD:** We better pull up the letter  
22 to Father Maloney, if you are going to question me on  
23 something.

24                  **MR. ERTEL:** Oh, I'd be happy to do that but  
25 I think you have agreed with me that you only refer to two

1 incidents, right?

2 MR. MacDONALD: That's correct.

3 MR. ERTEL: Okay. And you know that you  
4 didn't refer to the third incident, right?

5 MR. MacDONALD: That's correct.

6 MR. ERTEL: Okay. And so when I'm saying  
7 that you were trying to be accurate and complete, I gather  
8 accuracy and completeness in your letter to Father Maloney  
9 wasn't your main concern. Is that ---

10 MR. MacDONALD: That's correct.

11 THE COMMISSIONER: Let's pull up the letter.

12 MR. ERTEL: We can pull up the letter and,  
13 as I understand it -- I'm just looking here. I think I  
14 have the exhibit number here. Maybe I don't -- 202, thank  
15 you.

16 (SHORT PAUSE/COURTE PAUSE)

17 MR. ERTEL: When it comes up you can just,  
18 if you want, confirm by reading it over what I have said,  
19 which is that you only dealt with two incidents and not  
20 three.

21 MR. MacDONALD: I don't need to read it  
22 over.

23 MR. ERTEL: You know that?

24 MR. MacDONALD: That's correct.

25 MR. ERTEL: Okay.



1                   **THE COMMISSIONER:** But I think the reference  
2 was as to whether or not he was trying to be as complete  
3 and I think that's why he said I'd like to read the letter.

4                   **MR. ERTEL:** Okay.

5                   Will that reading the letter over now assist  
6 you in whether you were trying to be complete in your  
7 disclosures to Father Maloney or not?

8                   **MR. MacDONALD:** As complete as I wanted to  
9 be.

10                  **MR. ERTEL:** Okay.

11                  At that point in time you didn't want to  
12 tell Father Maloney everything that had happened. Is that  
13 ---

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

15                  **MR. ERTEL:** Okay.

16                  Another thing besides the years that came up  
17 as these proceedings took place over time, I gather, was  
18 the layout of this place where the retreat took place, at  
19 St. Andrew's. Is that -- is that something that you recall  
20 being examined on at various proceedings and questioned on  
21 by the police and that sort of thing?

22                  **MR. MacDONALD:** Yes.

23                  **MR. ERTEL:** And I gather you'll recall that  
24 you were asked in a meeting with two Ontario Provincial  
25 Police officers whether the room you were in was an open

1 concept or whether there were any dividers between the beds  
2 or cubicles or anything of that nature. Do you recall  
3 that?

4 **MR. MacDONALD:** Yes.

5 **MR. ERTEL:** And I gather, at first at least,  
6 in response to their questioning, your answer was that it  
7 was an open concept. There were maybe 10 or so altar boys  
8 in that open concept but that you later, I guess, through  
9 some process of memory were able to recall that in fact  
10 there were some dividers or cubicle-style layout in that  
11 room?

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

13 **MR. ERTEL:** Okay. And so you're agreed with  
14 me that, at first, you were saying that it was an open  
15 concept, that all of the boys would have been in the same  
16 room and that there would have been no dividers and that  
17 sort of thing?

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

19 **MR. ERTEL:** And I gather there are some ---

20 **MR. MacDONALD:** Oh, I need you to repeat  
21 that question.

22 **MR. ERTEL:** I gather at first you were  
23 saying that there were 10 or more boys, altar boys and  
24 other boys I guess, in a room that was an open concept room  
25 and you later, through a process of remembering or

1 something, were able to determine in fact that it wasn't  
2 really an open concept room. There were cubicles between  
3 the beds and creating some sort of privacy around each bed.

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

5 **MR. ERTEL:** Okay. That process of  
6 remembering, I gather, it's hard for you to put your finger  
7 on exactly what it is or how that process actually works in  
8 your mind to help you to remember these things later?

9 **MR. MacDONALD:** That would be correct.

10 **MR. ERTEL:** It's a process that happens, in  
11 your mind, that you really couldn't describe for us?

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

13 **MR. ERTEL:** And it didn't just happen with  
14 respect to whether there were dividers between the beds but  
15 also happened to you with respect to whether there were  
16 just boys at this retreat or whether there were boys and  
17 girls. Is that fair?

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

19 **MR. ERTEL:** So that when you were  
20 specifically asked by police at first, were there boys or  
21 boys and girls or were there girls sleeping downstairs or  
22 something like that, your answer was there were no girls  
23 but now through this process of memory you've been able to  
24 determine that in fact there were boys and girls there?

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

1                   **MR. ERTEL:** Is that fair?

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

3                   **MR. ERTEL:** Okay.

4                   **THE COMMISSIONER:** Can you help me on the  
5 relevance of all of this with respect to an institutional  
6 response?

7                   **MR. ERTEL:** Well, it strikes me, Mr.  
8 Commissioner, that it would be relevant for two reasons.  
9 One is because, obviously, the institutional responses  
10 continue as the case continues. The response to changing  
11 and shifting stories, there may be some difference in how  
12 the response -- what the response is to that. Obviously,  
13 these agencies, the police and the Crown attorney have a  
14 duty not only to the accused person who is making the -- or  
15 sorry -- the complainant who is making the complaint, but  
16 also to the accused person.

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

18                   **MR. ERTEL:** Stories changing over time might  
19 affect their response, the institutional response that's  
20 made, bearing in mind the obligation that these  
21 institutions have both to the accused and to the  
22 complainant.

23                   **THE COMMISSIONER:** Assuming that the  
24 institutions were aware of those differences?

25                   **MR. ERTEL:** Oh ---

1                   **THE COMMISSIONER:** Because you're going back  
2 to examinations for discovery and things like that.

3                   **MR. ERTEL:** Not only were they aware of  
4 them, sir, but as I understand it, they're detailed in  
5 quite a bit of detail in some notes that Mr. Pelletier made  
6 to his file. As I understand it, there is two documents  
7 that deal with this, 112883 and 113 -- sorry?

8                   **THE COMMISSIONER:** Just a second.

9                   **MR. ERTEL:** I'm sorry, 112883.

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

11                  **MR. ERTEL:** Mr. Pelletier's notes to file,  
12 and then 113942 which is Mr. Pelletier's conclusion that  
13 the slimmest prospect of conviction exists if the matters  
14 proceed. In those documents he refers to cross-examination  
15 at the preliminary inquiry which he was presumably taking  
16 into consideration. The cross-examination at the  
17 preliminary inquiry included cross-examination based on the  
18 answers given at the discovery.

19                   Does that answer your question?

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

21                  **MR. ERTEL:** I'm not going to belabour it.  
22 I'll keep moving, but that was the point.

23                   And so in any event, this process of memory  
24 helps you remember some details and sometimes it helps you  
25 remember that something that you said in fact was really

1 not accurate. In this case we're dealing with whether  
2 there were dividers between the beds in St. Andrew's and  
3 whether there were boys or girls there. You were able  
4 through a process of memory to actually realize that what  
5 you had previously said was not accurate?

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

7 **MR. ERTEL:** And this process of memory that  
8 you have that allows you to come back and revisit details  
9 and make them more accurate, I gather it doesn't work as  
10 well for you when it comes to what years things happened or  
11 something like that?

12 **MR. MacDONALD:** I guess.

13 **MR. ERTEL:** Because you're still kind of  
14 estimating in what years various things happened, right?

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

16 **MR. ERTEL:** Okay.

17 I gather that in the course of the  
18 investigation the police sought assistance from you to try  
19 and figure out who might be able to corroborate some of  
20 this stuff. Is that fair?

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

22 **MR. ERTEL:** That you -- well, first of all,  
23 that you gave them some names of people who might be able  
24 to corroborate certain things?

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

1                   **MR. ERTEL:** And we know that this fellow,  
2                   Malcolm Derrig is not available to corroborate the  
3                   disclosures that you made to him.

4                   There is a second incident after the St.  
5                   Andrew's incident that involves, on your allegations, a  
6                   trip to Bishop Proulx's residence in Alexandria.

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

8                   **MR. ERTEL:** And I gather that you remember a  
9                   boy being with you, another boy being with you and Father  
10                  MacDonald on that trip?

11                  **MR. MacDONALD:** Somebody else was there.

12                  **MR. ERTEL:** Oh, he might not have been a  
13                  boy?

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

15                  **MR. ERTEL:** In any event, you went with  
16                  Father MacDonald up to the residence in Alexandria in a  
17                  car, right?

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

19                  **MR. ERTEL:** And there was another, I guess  
20                  kid, with you -- child with you? Is that ---

21                  **MR. MacDONALD:** Somebody else was in the  
22                  car.

23                  **MR. ERTEL:** Okay. So you can't even say  
24                  whether it was a child who was in the car with you?

25                  **MR. MacDONALD:** I'm not going to guess.

1                   **MR. ERTEL:** Okay. No, I'm not asking you to  
2                   guess.

3                   So somebody else of, I guess, undetermined  
4                   age and undetermined sex was in the car with you. Is that  
5                   ---

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

7                   **MR. ERTEL:** It could have been a man or a  
8                   woman, it could have been a boy or a man or it could have  
9                   been a girl or a woman?

10                  **MR. MacDONALD:** Ninety (90) percent sure  
11                  that it was another altar boy.

12                  **MR. ERTEL:** Okay. But you have no idea who  
13                  that might have been?

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

15                  **MR. ERTEL:** And so Mr. Derrig was not  
16                  available to corroborate anything and whoever the boy was  
17                  who went along with you on this alleged trip to Alexandria  
18                  was not available to corroborate any of the details of that  
19                  trip. But then, I gather -- I gather you offered up some  
20                  other possible collaboration? I'm thinking specifically of  
21                  your mother.

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

23                  **MR. ERTEL:** A fellow named Peter Descroziere  
24                  or Descoziere?

25                  **MR. MacDONALD:** No, I didn't offer up -- as



1           you put it, Peter Descoziere.

2                       **MR. ERTEL:** Okay. But you did offer up a  
3 name, either Aza or Aza Morrisette?

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

5                       **MR. ERTEL:** How do you pronounce his first  
6 name?

7                       **MR. MacDONALD:** Aza.

8                       **MR. ERTEL:** Aza Morrisette. And this Peter  
9 Descoziere fellow he, I gather, was like the executive  
10 director of Mount Carmel or something like that was he?

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

12                       **MR. ERTEL:** And ---

13                       **MR. MacDONALD:** And Aza Morrisette's  
14 brother-in-law.

15                       **MR. ERTEL:** And he was Aza Morrisette's  
16 brother-in-law?

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

18                       **MR. ERTEL:** You didn't have any -- you  
19 still, I gather, don't have any reason to believe that  
20 these two fellows had any axe to grind with you or anything  
21 like that?

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

23                       **MR. ERTEL:** You don't know of any?

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

25                       **MR. ERTEL:** Any dispute they'd have with you

1 or anything?

2 MR. MacDONALD: That's correct.

3 MR. ERTEL: And I gather the same goes for  
4 your mom?

5 MR. MacDONALD: That's correct.

6 MR. ERTEL: And have you seen their  
7 statements?

8 MR. MacDONALD: Yes, I have.

9 MR. ERTEL: What they've alleged? Maybe  
10 taking them in order; the first statement would be document  
11 number 116264. It's a statement of Peter -- is it  
12 Descoziers or Descroziars?

13 MR. MacDONALD: Descoziers.

14 MR. ERTEL: Descoziers, sorry. So it's  
15 actually probably spelt wrong here maybe. I wonder if we  
16 could get that statement up?

17 (SHORT PAUSE/COURTE PAUSE)

18 MR. ERTEL: Have I given the wrong number,  
19 Peter Descoziers, 116264. It would be Bates page number  
20 109844. It's page number 109844. Oh, that's the document  
21 number.

22 THE REGISTRAR: One-oh-nine-eight-four-four  
23 (109844).

24 MR. ERTEL: Okay. I'm relying on a memo  
25 that I got from somebody that I -- so 116264 would not be a

1 document number?

2 **THE REGISTRAR:** That's Exhibit 202.

3 **MR. ERTEL:** Okay.

4 **MR. DUMAIS:** The Crown brief.

5 **MR. ERTEL:** Okay. That statement must be in  
6 Exhibit 202. So that's fine. We can just use Exhibit 202  
7 and it would be Bates number 109844 would be the statement  
8 of Peter Descoziers as it is written on the ---

9 Okay. How many numbers are there in a Bates  
10 page? I thought I have the number here, 109844. I'm  
11 sorry?

12 **MR. SHERIFF-SCOTT:** Mr. Ertel, I know what  
13 the document number is.

14 **MR. ERTEL:** Oh, you do? Would you approach  
15 the microphone? There is rules.

16 **(LAUGHTER/RIRES)**

17 **MR. SHERIFF-SCOTT:** This is a short circuit,  
18 this floundering around. It's Bate doc number 110432.  
19 Which is Tab 21 in the Diocese books.

20 **MR. ERTEL:** Thank you for that.

21 Maybe you can just stand by here, Mr.  
22 Sherriff-Scott.

23 **THE COMMISSIONER:** Okay. So what do we  
24 have? Do we have it on the ---

25 **(SHORT PAUSE/COURTE PAUSE)**

1                   **MR. ERTEL:** We can't find it.

2                   **THE COMMISSIONER:** Well, it's been filed  
3 before?

4                   **MR. ERTEL:** I gather it's part of the Crown  
5 brief and it's also been indicated that it's a part of the  
6 Diocese brief. Okay. Maybe I'll just read the passage and  
7 see if he recalls reading that and maybe he does not need  
8 to see the statement. Can I try that?

9                   **THE COMMISSIONER:** Pardon me?

10                  **MR. ERTEL:** Statement of Peter Descoziere;  
11 there it is, Descoziere.

12                  **THE COMMISSIONER:** Okay. We just don't have  
13 paper copies.

14                  **MR. ERTEL:** I don't believe this document  
15 has been identified by Charlie's counsel that he'd be  
16 relying on to cross-examine Mr. MacDonald, which further  
17 means that Mr. MacDonald has not been provided with a copy  
18 of the document.

19                         It sounds like it violates the rules. Then  
20 I won't even put the document to him. I'll just ask him a  
21 question, sir.

22                  **THE COMMISSIONER:** All right.

23                  **MR. ERTEL:** I am not really sure how that --

24                         -

25                  **THE COMMISSIONER:** There are a number of

1 rules here and the one is that ---

2 MR. ERTEL: You have yet to ignore us.

3 THE COMMISSIONER: --- if you don't come up  
4 with paper documents you pay lunch for all of the lawyers  
5 involved. That's number one.

6 (LAUGHTER/RIRES)

7 MR. ERTEL: I'll be happy to do that ---

8 THE COMMISSIONER: That's number one.

9 MR. ERTEL: I've been for lunch in Cornwall;  
10 it's not that expensive, sir.

11 THE COMMISSIONER: I can show you a couple  
12 of places.

13 (LAUGHTER / RIRES)

14 MR. ERTEL: Why don't I just try a question,  
15 see what happens ---

16 THE COMMISSIONER: All right.

17 MR. ERTEL: --- and I am actually pretty  
18 close to the end of my cross-examination. I don't think  
19 it's going to be that controversial.

20 I'm sure you've been cross-examined about  
21 Miser -- sorry, you say his name is Mr. Descoziers?

22 MR. MacDONALD: That's correct.

23 MR. ERTEL: You've been cross-examined about  
24 his statement before; you know the proceedings?

25 MR. MacDONALD: I think so.

1                   **MR. ERTEL:** And specifically that he alleged  
2                   in his statement that in 1995 he met you at the  
3                   unemployment office. Do you recall that?

4                   **MR. MacDONALD:** Yes.

5                   **MR. ERTEL:** Do you actually recall meeting  
6                   at the unemployment office?

7                   **MR. MacDONALD:** Yes.

8                   **MR. ERTEL:** And you also recall, I guess,  
9                   that you've been cross-examined on his statement about that  
10                  meeting?

11                  **MR. MacDONALD:** Yes.

12                  **MR. ERTEL:** And he said in there that he  
13                  hadn't seen you for about three years and you discussed  
14                  with him the death of your counsellor.

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

16                  **MR. ERTEL:** Okay. And now there is two  
17                  possible "that's correct" here. It's either that's  
18                  correct, you recall him saying that?

19                  **MR. MacDONALD:** The death of my counsellor?

20                  **MR. ERTEL:** Yes.

21                  **MR. MacDONALD:** That's the only thing I  
22                  remember the conversation being about.

23                  **MR. ERTEL:** Right. But, I guess you know  
24                  where I'm going with this, do you?

25                  **MR. MacDONALD:** Absolutely.

1                   **MR. ERTEL:** Yes, okay. So this is not  
2 really catching you by surprise.

3                   **MR. MacDONALD:** Not at all.

4                   **MR. ERTEL:** Okay. Because what he said was  
5 that there was some discussion about the topic of Father  
6 MacDonald and that he told you that he found it hard to  
7 believe that Father MacDonald had done anything like what  
8 was being alleged by someone else, not by you. And he said  
9 that you also told him that you found it hard to believe.

10                  **MR. MacDONALD:** So he says.

11                  **MR. ERTEL:** Right. And I gather you  
12 disagree with that.

13                  **MR. MacDONALD:** Absolutely.

14                  **MR. ERTEL:** And it catches you by surprise  
15 because, as far as you're concerned, this fellow has no axe  
16 to grind with you.

17                  **MR. MacDONALD:** Not that I know of.

18                  **MR. ERTEL:** And without turning to the  
19 statement, because I've run out of money and I don't want  
20 to buy everybody lunch, you'll recall Mr. Morrisette's  
21 statement and you know where I'm going with this one too  
22 probably.

23                  **MR. MacDONALD:** Absolutely.

24                  **MR. ERTEL:** You've been through this before.

25                  **MR. MacDONALD:** But I would like Mr.

1 Morrisette's statement to be pulled up.

2 MR. ERTEL: Oh, you'd like it to be pulled  
3 up?

4 MR. MacDONALD: Yes.

5 MR. ERTEL: I don't know if I am allowed to  
6 do that. I didn't give notice.

7 MR. LEE: Somebody has.

8 MR. ERTEL: Good.

9 THE COMMISSIONER: Well, let's see where it  
10 is. What document number?

11 MR. ERTEL: The document number I have here  
12 is 116264, page 1098426, Bates page.

13 THE COMMISSIONER: Here we go. Exhibit 203.

14 MR. ERTEL: Is there a way to provide for  
15 the witness?

16 THE COMMISSIONER: Hang on, I don't think  
17 it's Exhibit 203.

18 MR. ERTEL: I've been given three -- I now  
19 have three different document numbers in front of me for  
20 the same statement.

21 THE COMMISSIONER: Welcome.

22 MR. ERTEL: I think I'm going to come back.  
23 This is fun.

24 (LAUGHTER/RIRES)

25 THE COMMISSIONER: Oh, yes, but the courtesy



1           that's being extended only lasts about a day.

2                       **MR. ERTEL:** I am a quick learner. I am a  
3 quick learner.

4                       **THE COMMISSIONER:** After that, they'll all  
5 be after you.

6                       **MR. ERTEL:** Then I'd really feel at home.

7                       **THE COMMISSIONER:** Okay. It's not an  
8 exhibit yet?

9                       **MR. ERTEL:** I have a -- sorry, it's not an  
10 exhibit?

11                      **THE COMMISSIONER:** It doesn't ring a bell  
12 with me.

13                      **MR. ERTEL:** I am sorry?

14                      **THE COMMISSIONER:** It does not ring a bell  
15 with me that was an exhibit.

16                      **MR. MacDONALD:** It has not been brought in  
17 evidence yet.

18                      **THE COMMISSIONER:** Here we have it. So  
19 let's just see if we can identify it to start off with and  
20 find out if we have a paper copy.

21                      **MR. ERTEL:** I had a document number but  
22 maybe it's no good.

23                      **MR. SHERRIFF-SCOTT:** I have another document  
24 number which may help.

25                      **MR. ERTEL:** Would you approach the

1 microphone please, Mr. Sherriff-Scott?

2 **MR. SHERRIFF-SCOTT:** I gave notice of this  
3 as Bates doc. 110425.

4 **THE COMMISSIONER:** Here we go. So that will  
5 be Exhibit No. 246.

6 **---EXHIBIT NO./PIÈCE No. P-246:**

7 Statement of Aza Morrisette - December 4,  
8 1995.

9 **MR. ERTEL:** Thank you.

10 **THE COMMISSIONER:** We will just identify it  
11 for a moment. So that's a statement of Aza Morrisette and  
12 it's dated the 4<sup>th</sup> of December 1995.

13 **MR. ERTEL:** Thank you.

14 You have the statement in front of you, sir?

15 The relevant portion is on the second --  
16 have you got the typed version or the written version?

17 **MR. MacDONALD:** I've got a typed version.

18 **MR. ERTEL:** Okay, so ---

19 **MR. MacDONALD:** I'd like the written  
20 version.

21 **MR. ERTEL:** Ha, ha, ha.

22 **MR. MacDONALD:** I'm glad you find this  
23 amusing.

24 **MR. ERTEL:** Well, I have a ---

25 **THE COMMISSIONER:** Just a minute. I am

1       sorry, sir, we did joke around about lunch and those things  
2       and you're quite right that when it comes to your testimony  
3       that we should ---

4               **MR. ERTEL:** I have a written -- I think a  
5       number for the written version. Does this number make  
6       sense, 11042671? Oh, sorry, 426, maybe slash 1 (426/1),  
7       110426.

8               So that's the written version of the same  
9       statement. That's it.

10              **THE COMMISSIONER:** I'm sorry, Exhibit 246?

11              Yes, thank you. Thank you.

12       **---EXHIBIT NO./PIÈCE NO P-247:**

13              Handwritten Statement of Aza Morrisette -  
14              November 28, 1995.

15              **MR. ERTEL:** The portion of the written  
16       statement that I'd like you to look at, sir, is the last  
17       paragraph on the first page and it goes from there pretty  
18       well to the end of this statement. If you can take your  
19       time and read through that, I'll ask you a couple of  
20       questions about that.

21              **MR. MacDONALD:** Okay.

22              **MR. ERTEL:** Okay. I'm going to read from  
23       the typed copy because the handwriting isn't that clear,  
24       but you can tell me if you think there is something  
25       different on the written copy.

1                   **MR. MacDONALD:** Okay.

2                   **MR. ERTEL:** It seems that he is suggesting  
3 that he spoke to you in the summer of 1995 and that you  
4 told him that your mother had told you about Mr. Silmser  
5 and asked if anything had happened to you and that you said  
6 "No, but for \$2 million, I've been racking my brain".

7                   **MR. MacDONALD:** So he says.

8                   **MR. ERTEL:** Okay. I gather you're saying  
9 you never said that to him.

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

11                  **MR. ERTEL:** Okay. But I gather you did talk  
12 to him about money, did you?

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

14                  **MR. ERTEL:** Okay. Is it possible that you  
15 said to him at some point in time "\$32,000 wouldn't make me  
16 forget" or something like that?

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

18                  **MR. ERTEL:** Okay. And that, I guess, was  
19 based on a settlement that Mr. Silmser had received, was  
20 it, that that number that you ---

21                  **MR. MacDONALD:** Probably.

22                  **MR. ERTEL:** Okay.

23                                And Mr. Morrisette goes on in his statement  
24 to say that things happened or, sorry that either you had  
25 never gone to Alexandria or that nothing ever happened when

1           you did go to Alexandria. I gather you disagree that you  
2           ever said that?

3                       **MR. MacDONALD:** Can you show me where it  
4           says that?

5                       **MR. ERTEL:** In the written statement?

6                       **MR. MacDONALD:** Yes.

7                       **MR. ERTEL:** It's on the second page of the  
8           written statement. There is a big paragraph kind of in the  
9           middle. It starts with:

10                                "He said that these things ..."

11                                Something about Bishop Proulx's house  
12           somewhere in Alexandria and something that he never went or  
13           that nothing ever happened when he did.

14                                "There was nothing ever said that  
15           anything happened or if he had been -  
16           - anything happened."

17                                Something like that. It's not very good  
18           English but I gather ---

19                       **MR. MacDONALD:** Exactly, something like  
20           what?

21                       **MR. ERTEL:** Yes. If he was saying that you  
22           said nothing improper happened between you and Father  
23           MacDonald up in Alexandria, that wouldn't be something that  
24           you ever would have said to him. Right?

25                       **MR. MacDONALD:** I hadn't told my wife yet.

1                   **MR. ERTEL:** Yes. And this fellow, Mr.  
2                   Morrisette, you've already agreed had really no axe to  
3                   grind with you, right?

4                   **MR. MacDONALD:** Not that I know of.

5                   **MR. ERTEL:** Okay. And then, you know the  
6                   situation with your mom. You testified about it when you  
7                   were last here in December, right?

8                   **MR. MacDONALD:** I think so.

9                   **MR. ERTEL:** Yes. Are you having trouble in  
10                  remembering what you testified in December last year, when  
11                  you came here to testify in December last year?

12                  **MR. MacDONALD:** I testified about a lot of  
13                  stuff.

14                  **MR. ERTEL:** Okay.

15                  Was one of the things that you testified  
16                  about the thing about your mom, whether your mom had  
17                  written a letter and that sort of thing?

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

19                  **MR. ERTEL:** Okay.

20                  And I gather that, at some point in time,  
21                  you had a memory that your mother had made a complaint  
22                  based on the disclosure you made to her about Father  
23                  MacDonald.

24                  **MR. MacDONALD:** I still believe that.

25                  **MR. ERTEL:** You still believe that your

1 mother made a complaint, a written complaint, about Father  
2 MacDonald based on a disclosure that you made to your  
3 mother?

4 **MR. MacDONALD:** I still believe that. I  
5 need to believe that.

6 **MR. ERTEL:** Okay. And the reason why you  
7 need to believe that, sir, is what?

8 **MR. MacDONALD:** It's my protection.

9 **MR. ERTEL:** Against what?

10 **MR. MacDONALD:** Almost irreparable damage.

11 **MR. ERTEL:** Okay.

12 And have you now come around to the view  
13 that it's possible that there never was any letter written  
14 by your mum?

15 **MR. MacDONALD:** I still believe that my  
16 mother contacted the church.

17 **MR. ERTEL:** Okay. But I gather you now  
18 believe that it's possible that she made a phone call and  
19 it was actually referencing something that might have  
20 happened to one of your brothers?

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

22 **MR. ERTEL:** Not involving Father MacDonald -  
23 - is that -- is the whole thing correct?

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

25 **MR. ERTEL:** Thank you, sir. Those are my

1 questions.

2 **THE COMMISSIONER:** Thank you.

3 So Mr. Neuberger, you said that -- no, Ms.  
4 Makepeace, you said you had no questions.

5 Mr. David Sherriff-Scott.

6 **MR. SHERRIFF-SCOTT:** Fortunately, I'm doing  
7 this the old-fashioned way.

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

9 **SHERRIFF-SCOTT:**

10 **MR. SHERRIFF-SCOTT:** Mr. MacDonald, I'm  
11 David Sherriff-Scott and I act for the Diocese. Good  
12 morning.

13 **MR. MacDONALD:** Good morning.

14 **MR. SHERRIFF-SCOTT:** And thank you for  
15 returning. I want to -- my cross-examination is going to  
16 be very brief and I just want to talk to you, to start  
17 about the spring and summer of 1995 when you returned from  
18 out west. And the questions I want to ask in the first  
19 instance on that subject are really just designed to  
20 situate you concerning the things that were going on in  
21 your life at that time. Fair?

22 **MR. MacDONALD:** Fair.

23 **MR. SHERRIFF-SCOTT:** Okay.

24 When you came back to Cornwall I think we  
25 can agree and you probably testified about this too many



1 times, that there were various media publications that were  
2 circulating around about which you were aware which  
3 concerned D.S. which you later learned was David Silmser.

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

5 **MR. SHERRIFF-SCOTT:** Charles MacDonald?

6 **MR. MacDONALD:** Correct.

7 **MR. SHERRIFF-SCOTT:** The Diocese?

8 **MR. MacDONALD:** Correct.

9 **MR. SHERRIFF-SCOTT:** Perry Dunlop?

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

11 **MR. SHERRIFF-SCOTT:** Okay. And there was  
12 coverage concerning the fact that there had been or was  
13 some litigation between Mr. Silmser and the church and  
14 Charles MacDonald?

15 **MR. MacDONALD:** Correct.

16 **MR. SHERRIFF-SCOTT:** Okay. And you knew  
17 D.S. referred to by the media was Mr. Silmser. Your mother  
18 told you that?

19 **MR. MacDONALD:** Correct.

20 **MR. SHERRIFF-SCOTT:** And in the summer of  
21 1995, you've just talked to Mr. Ertel about Mr. Morrisette.  
22 I take it you had known him since you were a child?

23 **MR. MacDONALD:** Correct.

24 **MR. SHERRIFF-SCOTT:** You were a reasonable  
25 acquaintance with him growing up?

1                   **MR. MacDONALD:** Correct.

2                   **MR. SHERRIFF-SCOTT:** And you don't deny  
3 meeting him that summer?

4                   **MR. MacDONALD:** No.

5                   **MR. SHERRIFF-SCOTT:** And you don't deny that  
6 the subject of the discussion of litigation between Mr.  
7 Silmsler and Mr. MacDonald and the church came up during the  
8 discussion?

9                   **MR. MacDONALD:** Correct.

10                  **MR. SHERRIFF-SCOTT:** And in the statement  
11 you referred to there was a reference to Mr. -- to yourself  
12 referring to a sum of \$2 million and you deny that.  
13 Correct, that for \$2 million you would be wracking your  
14 brain, is what Mr. Morrisette said?

15                  **MR. MacDONALD:** Correct.

16                  **MR. SHERRIFF-SCOTT:** That sum of money was,  
17 in fact, as you now know, what Mr. Silmsler was actually  
18 suing for?

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

20                  **MR. SHERRIFF-SCOTT:** It was approximately  
21 the same sum of money you ended up suing for?

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

23                  **MR. SHERRIFF-SCOTT:** All right.

24                                 Now, you remember being examined by Mr.  
25 Neville no doubt, at the preliminary inquiry?

1                   **MR. MacDONALD:** Correct.

2                   **MR. SHERRIFF-SCOTT:** And I just want to read  
3 you a few passages from Exhibit 224.

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

5                   **MR. SHERRIFF-SCOTT:** The Bates page I have  
6 are the Diocesan pages, Madam Clerk. I have pages --  
7 starting at page 105 of the transcript.

8                   **(SHORT PAUSE/COURTE PAUSE)**

9                   **MR. SHERRIFF-SCOTT:** Actually, I'm sorry,  
10 Madam Clerk, if you could go to the very bottom of page  
11 104?

12                   And Mr. MacDonald, I just want to make sure  
13 that you're aware of all of this. So let's just read  
14 together starting at line 30 of the bottom of page 104. Do  
15 you have that page?

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

17                   **MR. SHERRIFF-SCOTT:** Okay.

18                   So you're being questioned by Mr. Neville  
19 here in connection with this meeting, a chance meeting that  
20 occurred between you and Mr. Morrisette, and he says there:

21                   "Do you remember when you came back  
22 from out west when you were now living in Cornwall in  
23 1995?"

24                   Answer: "Yes, sir."

25                   "And do you remember when you saw Mr.

1 Aza Morrisette?"

2 Over to the top of the next page, are you  
3 with me?

4 **MR. MacDONALD:** Yes, I am.

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

6 At answer:

7 "Yes, I did, sir."

8 Question:

9 "When did you see him?"

10 "I don't know. I was taking my dog  
11 for a walk one night."

12 Question:

13 "Do you remember what month it was?"

14 "No, I don't recall."

15 I take it you now know that this meeting was  
16 before you wrote to Kevin Maloney?

17 **MR. MacDONALD:** Correct.

18 **MR. SHERRIFF-SCOTT:** Thank you. And:

19 "Do you remember what month it was?"

20 "No, I can't recall."

21 "Was it before or after you wrote to  
22 Father Maloney?"

23 "It was before."

24 "Did you have a conversation with  
25 him?"

1 "Yes, I did."

2 "What was the conversation?"

3 "I don't know. Just in general terms  
4 we were talking about what was going  
5 on."

6 "What was the conversation? What did  
7 he say?"

8 "I'm not sure. I can't recall."

9 "How did the subject come up?"

10 "It was newsworthy at the time then,  
11 you know."

12 Question:

13 "Right. Well, how did it come  
14 up? Who brought it up?"

15 "I can't recall."

16 Now, over to page 106 with the first  
17 question at approximately line 3. Are you with me there?

18 **MR. MacDONALD:** Yes, I am.

19 **MR. SHERRIFF-SCOTT:**

20 "Here is a fellow that you grew up  
21 with, generally speaking, in your  
22 neighbourhood. You hadn't seen him for  
23 10 years, if not more. How long did  
24 you talk to him?"

25 "Oh, I don't know, about half an hour."

1 "Okay. And did the subject of the  
2 church and Father MacDonald and David  
3 Silmser come up?"

4 "Yes, sir, all right."

5 "How did it come up?"

6 "I'm not sure, sir. I can't recall."

7 "Was there any discussion of David  
8 Silmser and what he was going through  
9 in the terms of lawsuits?"

10 Answer:

11 "I'm pretty sure there was, yes."

12 "And what did you say if anything about  
13 it?"

14 "You're asking me my recollection of  
15 what?"

16 "Yes."

17 "You're not looking for one line of  
18 what I said?"

19 "No, no, because one line was brought  
20 up in discovery, sir, that was said."

21 Question:

22 "What line is that?"

23 "Something Mr. Morrisette said."

24 Question:

25 "Which is something about \$2 million or

1 something like that?"

2 "I can't recall the line they said was  
3 used."

4 Question:

5 "What was the line that was brought  
6 up?"

7 Answer:

8 "By -- that was said?"

9 Question, and over to the top of the next  
10 page:

11 "That they're looking for -- there was  
12 a line brought up. I can't recall the  
13 line that was brought up in the  
14 discoveries. Can you refresh my memory  
15 -- refresh me on that?"

16 "Well, we may get there eventually. I  
17 want to get your recollection. Did as  
18 a --"

19 Answer:

20 "Do I -- do I know -- do I know what I  
21 said?"

22 Answer -- question:

23 "Yes."

24 Answer:

25 "And now you say upon further

1 reflection from discoveries to today."

2 And what you meant by that is you had  
3 remembered something additional that you hadn't talked  
4 about in discoveries that you were going to tell Mr.  
5 Neville about. Correct?

6 **MR. MacDONALD:** It seems that way.

7 **MR. SHERRIFF-SCOTT:**

8 "Upon further reflection from  
9 discoveries today, yes, sir, that  
10 32,000 is not enough to make me  
11 forget.' That's what you said?"

12 Answer:

13 "That's what I said."

14 "All right. Now, where did the figure  
15 32,000 come from?"

16 "Because there was a settlement that  
17 was reported in the paper."

18 And you are aware of the figure,  
19 32,000?"

20 "No audible response."

21 "Sorry?"

22 "Yes, sir."

23 Okay. So when you were questioned on the \$2  
24 million business at the discoveries the subject of the  
25 32,000 didn't come up but you later contend that you



1           remembered that in reflection and testified about that at  
2           the preliminary inquiry with Mr. Neville in the cross-  
3           examination?

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

5                   **MR. SHERRIFF-SCOTT:** All right.

6                   So just situating ourselves, then, in the  
7           summer of 1995 before you write to Father Kevin, you knew  
8           some of the history of the sums for litigation?

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

10                  **MR. SHERRIFF-SCOTT:** You knew that he had  
11           settled against the church and Charles MacDonald for  
12           \$32,000?

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

14                  **MR. SHERRIFF-SCOTT:** You knew there was  
15           current litigation?

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

17                  **MR. SHERRIFF-SCOTT:** And according to Mr.  
18           Morrissette, at least, among other things, you knew the sum  
19           of money Mr. Silmser was suing for?

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

21                  **MR. SHERRIFF-SCOTT:** All right.

22                   At least, that's what Mr. Morrissette says.  
23           Correct?

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

25                  **MR. SHERRIFF-SCOTT:** All right.

1                   And you knew Mr. Silmsers growing up quite  
2                   well, I take it?

3                   **MR. MacDONALD:** I knew Mr. Silmsers growing  
4                   up.

5                   **MR. SHERRIFF-SCOTT:** You were friends?

6                   **MR. MacDONALD:** On and off.

7                   **MR. SHERRIFF-SCOTT:** Your friendship lasted  
8                   well beyond your childhood, didn't it, into your teens?

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

10                  **MR. SHERRIFF-SCOTT:** Twenties and thirties  
11                  and so forth?

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

13                  **MR. SHERRIFF-SCOTT:** Okay. All right.

14                  Now, if we can just -- Mr. Commissioner,  
15                  whenever you feel there is a break required let me know and  
16                  I'll just press on until I hear from you.

17                  **THE COMMISSIONER:** Yes.

18                  **MR. SHERRIFF-SCOTT:** I just want to now  
19                  switch gears and talk about the letter to Kevin Maloney,  
20                  okay?

21                  **MR. MacDONALD:** Okay.

22                  **MR. SHERRIFF-SCOTT:** Which is August of  
23                  1995.

24                  **THE COMMISSIONER:** What exhibit, Madam  
25                  Clerk?

1                   **MR. SHERRIFF-SCOTT:** That is 202. All  
2 right, Commissioner?

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

4                   **MR. SHERRIFF-SCOTT:** Just tell me when you  
5 have turned that up, Mr. MacDonald.

6                   **MR. MacDONALD:** Okay.

7                   **MR. SHERRIFF-SCOTT:** Okay, so some general  
8 questions at first.

9                   On August 11<sup>th</sup> '95 you wrote to Kevin Maloney  
10 and delivered that letter to him by hand on the 14<sup>th</sup>, we now  
11 know, as you testified in December?

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

13                   **MR. SHERRIFF-SCOTT:** After you had made some  
14 copies of it at the post office?

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

16                   **MR. SHERRIFF-SCOTT:** All right.

17                   Now, on the third page of your letter you --  
18 -

19                   **(SHORT PAUSE/COURTE PAUSE)**

20                   **MR. SHERRIFF-SCOTT:** You say at the top of  
21 the page -- I'm sorry, the second page, sir, you say:

22                   "Dave and I were friends for many years  
23 and although I have not seen him in the  
24 last six years or so, I owe him a great  
25 deal."

1                   So that confirms your historical friendship  
2                   with Mr. Silmser?

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

4                   **MR. SHERRIFF-SCOTT:** Okay.

5                   And at the third page you talk about at the  
6                   bottom of the page the fact that you want this letter  
7                   essentially kept between you and Father Kevin at the time.  
8                   You don't want anybody involved "my wife, children,  
9                   lawyers, police, CAS, nobody involved"?

10                  **MR. MacDONALD:** Correct.

11                  **MR. SHERRIFF-SCOTT:** Okay. You don't want  
12                  go through what you say Dave went through or what you  
13                  imagine Dave is going through, which I take it you believed  
14                  to be difficult. Correct?

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

16                  **MR. SHERRIFF-SCOTT:** So when you wrote to  
17                  Father Kevin you had not made any disclosure to the police.  
18                  Correct?

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

20                  **MR. SHERRIFF-SCOTT:** To the CAS?

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

22                  **MR. SHERRIFF-SCOTT:** Or any public  
23                  institution. Correct?

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

25                  **MR. SHERRIFF-SCOTT:** And you essentially

1 wanted Father Kevin, as you say at the other -- at the next  
2 page -- you want something done, but you don't say what  
3 that was in your letter.

4 **MR. MacDONALD:** I'm sure somewhere in here  
5 it's asking for help.

6 **MR. SHERRIFF-SCOTT:** Well, I don't -- I  
7 don't see that, sir, so if you want to pause and take a  
8 moment I suggest to you that basically -- and I'm not --  
9 this is not a criticism of you. We're just trying to get  
10 to the historical fact here -- that essentially you asked  
11 for something to be done but you don't say what you want.

12 **(SHORT PAUSE/COURTE PAUSE)**

13 **MR. MacDONALD:** I guess you're right.

14 **MR. SHERRIFF-SCOTT:** Okay. I don't want to  
15 be unfair to you. I want you to take the time to read  
16 this.

17 So if we can just fairly say in summary you  
18 didn't stipulate that you wanted an apology. Fair?

19 **MR. MacDONALD:** I wasn't looking for an  
20 apology.

21 **MR. SHERRIFF-SCOTT:** All right.  
22 You didn't say you wanted Father Charles  
23 removed from his duties or what have you?

24 **MR. MacDONALD:** No.

25 **MR. SHERRIFF-SCOTT:** You didn't say anything

1 specific about what you wanted to be achieved from this  
2 letter?

3 **MR. MacDONALD:** I guess I didn't.

4 **MR. SHERRIFF-SCOTT:** And then at the last  
5 page of the letter you close with a paragraph that says:

6 "Please don't make me push this any  
7 further than between us."

8 I take it what you're suggesting there is  
9 that if there is not some resolution to your satisfaction  
10 you are going to do something else which you also don't say  
11 or detail?

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

13 **MR. SHERRIFF-SCOTT:** Well, you say:

14 "Don't make me push this any further  
15 than between us."

16 Any further implies fairly, doesn't it, that  
17 there is some other course that you might follow if you  
18 don't get satisfaction from Father Kevin. Isn't that fair?

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

20 **MR. SHERRIFF-SCOTT:** Sir, weren't you  
21 suggesting that if you didn't get something that you were  
22 satisfied with from Father Kevin as a response very soon,  
23 that you would either go to the authorities or sue the  
24 Diocese? Isn't that what you were saying?

25 **MR. MacDONALD:** No.

1                   **MR. SHERRIFF-SCOTT:** No? You knew Mr.  
2 Silmsler had historically gone to the church and attempted  
3 to secure a settlement, correct?

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

5                   **MR. SHERRIFF-SCOTT:** You were effectively, I  
6 suggest, doing the same thing here; you were looking for  
7 financial resolution with the Diocese, failing which you  
8 would do something else?

9                   **MR. MacDONALD:** No. No.

10                  **MR. SHERRIFF-SCOTT:** I'm not saying that's  
11 to be criticized, sir.

12                  **MR. MacDONALD:** No, I am telling you, no.  
13 That's not where my frame of mind was at.

14                  **MR. SHERRIFF-SCOTT:** Okay. And yet within a  
15 few days you were speaking to lawyers about your options  
16 for suing the Diocese, weren't you?

17                  **MR. MacDONALD:** Within days?

18                  **MR. SHERRIFF-SCOTT:** Well, let's just go to  
19 your Exhibit 204, which is the handwritten chronology that  
20 you prepared.

21                         Before we leave that, surely you'll agree  
22 with me, Mr. MacDonald, that your letter to Father Kevin,  
23 is open to that interpretation? In other words, that  
24 you're going -- you want something and if you don't get it,  
25 you're going to go to the authorities or sue. You were

1 very non-specific about your demands.

2 **MR. MacDONALD:** And you want me to apologize  
3 for that today?

4 **MR. SHERRIFF-SCOTT:** No, I'm not asking for  
5 an apology for anything, Mr. MacDonald. You're testifying  
6 here. That's your right.

7 **MR. MacDONALD:** I know what I wanted and  
8 needed.

9 **MR. SHERRIFF-SCOTT:** That's not what I'm  
10 asking you. I'm asking you if you agree with me that your  
11 letter was open to the interpretation that I suggested? In  
12 other words, you were very non-specific. You left the  
13 reader to infer what you wanted.

14 Isn't that a fair statement?

15 **MR. MacDONALD:** Fair?

16 **MR. SHERRIFF-SCOTT:** Not in the global  
17 context, sir, about the interpretation of your letter. I  
18 don't want to debate the merits of your allegations. I'm  
19 not here to do that.

20 **MR. MacDONALD:** I'm not here to debate  
21 either.

22 **MR. SHERRIFF-SCOTT:** Okay.

23 **MR. MacDONALD:** I know where my mindset was.

24 **MR. SHERRIFF-SCOTT:** That's fine.

25 **MR. MacDONALD:** If I can't convince you of



1 that, then your mind is in another place that I'll never  
2 bring it over to.

3 **MR. SHERRIFF-SCOTT:** Well, no, I'm not  
4 trying to get you to agree with my mindset or where my mind  
5 is.

6 **MR. MacDONALD:** But you're asking me to  
7 agree to something that I can't agree to knowing where my  
8 mindset was.

9 **THE COMMISSIONER:** Can I stop for a minute?

10 **MR. SHERRIFF-SCOTT:** Yes.

11 **THE COMMISSIONER:** In fairness there; you've  
12 told me what your frame of mind was, when you wrote this  
13 letter.

14 **MR. MacDONALD:** All right.

15 **THE COMMISSIONER:** So what he's asking you  
16 to do is imagine for a moment that this isn't your letter  
17 and that you're reading this ---

18 **MR. SHERRIFF-SCOTT:** --- objectively.

19 **THE COMMISSIONER:** Well, never mind. That  
20 you're just reading this and what would you as an outsider  
21 think this last paragraph could mean.

22 So what he's asking you is could it mean ---

23 **MR. MacDONALD:** Sir, I read the pain in the  
24 letter and that's all I can see.

25 **THE COMMISSIONER:** I understand that.

1                   **MR. MacDONALD:** And I feel the compassion.  
2                   So that asking me to step outside of that, I can't do it.

3                   **THE COMMISSIONER:** Okay. Then that's fair  
4                   enough.

5                   **MR. SHERRIFF-SCOTT:** We'll move on. Thank  
6                   you.

7                   I think that -- I wasn't asking you to agree  
8                   with me that your letter meant something specific or that  
9                   you meant something specific by writing it, that I'm  
10                  saying. Really, I was just asking you to agree with me  
11                  because you were non-specific that one could come to that  
12                  conclusion. Okay?

13                  **MR. MacDONALD:** No, I'm not going to agree  
14                  to that.

15                  **MR. SHERRIFF-SCOTT:** We'll move on then.

16                  **THE COMMISSIONER:** Hold on. He's not asking  
17                  you to agree. He was just trying to ---

18                  **MR. MacDONALD:** He tried to -- he left it as  
19                  an open-ended question, for me to drop something in.

20                  **THE COMMISSIONER:** No.

21                  **MR. MacDONALD:** I can't.

22                  **THE COMMISSIONER:** You wouldn't ---

23                  **MR. MacDONALD:** I can't.

24                  **THE COMMISSIONER:** Okay. He wasn't going to  
25                  do that. I'm not going to let him do that and I think he

1 was just trying to explain what his frame of mind was in  
2 asking the question.

3 Let's move on.

4 **MR. SHERRIFF-SCOTT:** Fair enough.

5 Do you have now your Exhibit 204, Mr.  
6 MacDonald?

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

8 **MR. SHERRIFF-SCOTT:** Just tell me if you  
9 need a break at any time, please. I know you've been up  
10 here the better part of the morning.

11 The reason I bring you to this is your  
12 suggestion that your letter was not open to the  
13 interpretation that you were seeking some financial  
14 resolution. And I suggested to you that within days of  
15 this matter, you were actually consulting with lawyers on  
16 that very subject. In your own chronology here, on the  
17 August 21<sup>st</sup> matter, you meet with Mr. Adams:

18 "Shared letter with him. Advises get  
19 another lawyer. One of three options  
20 to deal with this; criminal charge, a  
21 civil suit or deal with the Diocese."

22 Do I take it that "deal with the Diocese"  
23 means to seek a financial resolution from the Diocese?

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

25 **MR. SHERRIFF-SCOTT:** That's possible, is it?

1                   **MR. MacDONALD:** The way I looked at dealing  
2 with the Diocese was I had a lawyer sending a letter asking  
3 for help.

4                   **MR. SHERRIFF-SCOTT:** All right. That's  
5 fine.

6                   And then, you were advised that Mr. Adams  
7 couldn't act for you on that day and so you, on the same  
8 day -- the next reference is at 2:30 -- you called Walter  
9 MacLean, another lawyer in town?

10                  **MR. MacDONALD:** I want to take a step back  
11 for a second.

12                  You say within days I'm meeting with Sean  
13 Adams. I was working at Mr. Adams' office at the time.

14                  **MR. SHERRIFF-SCOTT:** Yes, that's fine.

15                  **MR. MacDONALD:** So it wasn't a specific  
16 meeting to set up I'm going to see a lawyer here.

17                  **MR. SHERRIFF-SCOTT:** Can we call up Exhibit  
18 234, please?

19                  I just want to refer to another document  
20 before we press on here, Mr. MacDonald -- which are the  
21 police notes of August 16<sup>th</sup>, 1995.

22                  If we can just highlight the August 21<sup>st</sup> '95  
23 entry, which is in the middle of the first page?

24                  **THE COMMISSIONER:** Say again?

25                  **MR. SHERRIFF-SCOTT:** August 21, 1995;

1 Exhibit 234. These are police officer's notes.

2 THE COMMISSIONER: Okay.

3 MR. SHERRIFF-SCOTT: These were put to the  
4 witness last day.

5 THE COMMISSIONER: I understand. I'm just  
6 trying to find it.

7 MR. SHERRIFF-SCOTT: It's the middle of the  
8 first page of the exhibit. You'll see on the left marginal  
9 column, there's 21 Aug. 1995 or '95.

10 THE COMMISSIONER: Right. I just misplaced.  
11 Okay, go ahead.

12 MR. SHERRIFF-SCOTT: Thank you.

13 This was put to you in your examinations  
14 earlier and I think it may have been in your direct  
15 examination by Commission counsel. There's a reference  
16 here to 10:21. There was a discussion between you and the  
17 Cornwall Police.

18 "He was expecting my call."

19 Then it says:

20 "He wants to pursue this through the  
21 proper channels (healing) but wants to  
22 discuss this with his lawyer, Sean  
23 Adams, first."

24 Correct?

25 MR. MacDONALD: Correct.

1                   **MR. SHERRIFF-SCOTT:** Okay. And I remember  
2                   you agreeing that you had this conversation with the  
3                   officer, last day. Is that not fair?

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

5                   **MR. SHERRIFF-SCOTT:** Okay. So the officer  
6                   here is presumably contacting you in relation to your  
7                   story, which has now been given to the police by Kevin  
8                   Maloney, as we now know. Correct?

9                   **MR. MacDONALD:** Correct.

10                  **MR. SHERRIFF-SCOTT:** Your response is you  
11                  want to see your lawyers first.

12                  **MR. MacDONALD:** I guess.

13                  **MR. SHERRIFF-SCOTT:** Okay. So you saw Mr.  
14                  Adams and then you called Mr. MacLean on the same day you  
15                  were advised Mr. Adams couldn't help you.

16                  **MR. MacDONALD:** Correct.

17                  **MR. SHERRIFF-SCOTT:** Okay. Now, this is  
18                  back to Exhibit 204, your chronology. Correct?

19                         So now, you went to see Mr. MacLean on the  
20                         23<sup>rd</sup>, which is page 2 of your chronology -- Exhibit 204.

21                                 Is that right?

22                   **MR. MacDONALD:** Repeat that, please?

23                   **MR. SHERRIFF-SCOTT:** Your own chronology at  
24                   the top of page 2. It's the August 23<sup>rd</sup> entry. You went to  
25                   see Mr. MacLean on that day, the 23<sup>rd</sup> of August. Correct?

1                   **MR. MacDONALD:** Correct.

2                   **MR. SHERRIFF-SCOTT:** So he laid out your  
3 options. This is after you've got Kevin Maloney's letter  
4 back. Correct?

5                   **MR. MacDONALD:** Correct.

6                   **MR. SHERRIFF-SCOTT:** All right.

7                   The options, I think you testified last  
8 time, were criminal charges; sue the Diocese; deal with the  
9 Diocese, which you weren't specific about. Is that not  
10 right?

11                   **MR. MacDONALD:** Correct.

12                   **MR. SHERRIFF-SCOTT:** Okay. Okay. So within  
13 a very short time after this letter to Kevin -- Kevin  
14 Maloney, you've seen two lawyers here and you're exploring  
15 your options. Correct?

16                   **MR. MacDONALD:** Correct.

17                   **MR. SHERRIFF-SCOTT:** And you've told the  
18 police that you're not going to speak to them effectively  
19 until you've done that.

20                   **MR. MacDONALD:** Until I've done what?

21                   **MR. SHERRIFF-SCOTT:**

22                   "Wants to discuss this first with his  
23 lawyers."

24                   **MR. MacDONALD:** I can't really recall that.

25                   **MR. SHERRIFF-SCOTT:** That's fine.

1                   So now, by September 11<sup>th</sup> of the same year,  
2                   you'd already -- you had retained Mr. MacLean, but then you  
3                   retained Mr. Geoffrey and met with him on September 11<sup>th</sup>.

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

5                   **MR. SHERRIFF-SCOTT:** Mr. Geoffrey was also  
6                   Mr. Silmsen's lawyer?

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

8                   **MR. SHERRIFF-SCOTT:** And by September 13<sup>th</sup>,  
9                   following your meeting with Mr. Geoffrey, you had  
10                  instructed him to send a letter saying that you were suing  
11                  the Diocese and asking whether or not the Diocese would  
12                  accept service of a statement of claim. Is that fair?

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

14                  **MR. SHERRIFF-SCOTT:** Okay. Can you turn to  
15                  -- I need Madam Clerk to call up Bates doc 738003.

16                  **THE COMMISSIONER:** We'll just bring up this  
17                  document and we'll take the lunch break.

18                  Is this an exhibit?

19                  **MR. SHERRIFF-SCOTT:** Not yet, Commissioner.  
20                  It is in part of my disclosure.

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

22                  **MR. SHERRIFF-SCOTT:** It's Tab 10 of the  
23                  books that I've ---

24                  **(SHORT PAUSE/COURTE PAUSE)**

25                  **MR. SHERRIFF-SCOTT:** Yes. September 13<sup>th</sup>



1 letter, 1995, from Mr. Geoffrey.

2 **THE REGISTRAR:** I don't have that.

3 **THE COMMISSIONER:** All right.

4 Well, let's take the lunch break and maybe  
5 you can work it out and then ---

6 **MR. SHERRIFF-SCOTT:** Thank you, Mr.  
7 Commissioner.

8 **THE COMMISSIONER:** --- we'll reconvene.

9 **THE REGISTRAR:** Oh.

10 **MR. SHERRIFF-SCOTT:** Sorry.

11 **THE COMMISSIONER:** It's okay. We'll do it  
12 after lunch.

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

14 **THE COMMISSIONER:** All right. Thank you  
15 very much.

16 Come back at 2:00.

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

19 The hearing will resume at 2:00 p.m.

20 --- Upon recessing at 12:35 a.m./

21 L'audience est suspendue à 12h35

22 --- Upon resuming at 14:09 p.m./

23 L'audience est reprise à 14h09

24 **THE REGISTRAR:** Order; all rise. Veuillez  
25 vous lever.

1                   This hearing of the Cornwall Public Inquiry  
2           is now in session. Please be seated. Veuillez vous  
3           asseoir.

4                   **THE COMMISSIONER:** Good afternoon, Mr.  
5           Sherriff-Scott.

6                   **MR. SHERRIFF-SCOTT:** Good afternoon, sir. I  
7           think we've resolved the issue and just so you know,  
8           Commissioner, I've endeavoured to give my friend the letter  
9           of notice, November 8<sup>th</sup>, pursuant to which we gave the  
10          notice and I thank your staff for working over the lunch  
11          hour. Apparently there's some confusion that arose between  
12          us.

13                   In any event, if you're ready, Mr. MacDonald  
14          to proceed?

15                   **JOHN MacDONALD, Resumed/Sous le même serment:**

16                   **--- CROSS-EXAMINATION BY/ CONTRE-INTERROGATOIRE PAR MR.**

17                   **SHERRIFF-SCOTT (cont'd/suite):**

18                   **MR. MacDONALD:** Yes.

19                   **MR. SHERRIFF-SCOTT:** Commissioner?

20                   **THE COMMISSIONER:** Yes.

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

22                   When we left off, Mr. MacDonald, just before  
23          lunch, we were talking about your letter to Father Kevin  
24          Maloney, which concluded with the statement, "Don't make me  
25          push this any further." And I put to you as a proposition

1 that meant as an inference to be drawn, that you were  
2 contending that if something wasn't done, you would pursue  
3 another course such as seeking financial redress or going  
4 to the police. I don't think you agreed with me fairly.  
5 So then I went -- started to talk about how shortly  
6 thereafter you began to speak to lawyers.

7 Do you remember those questions?

8 **MR. MacDONALD:** Yes.

9 **MR. SHERRIFF-SCOTT:** Okay. So where we left  
10 off was after the exchange we talked about Mr. MacLean and  
11 we talked about Mr. Adams, who you saw respectively on  
12 August 21<sup>st</sup> and 23<sup>rd</sup>. Correct?

13 **MR. MacDONALD:** Mr. Adams, then Mr. MacLean.

14 **MR. SHERRIFF-SCOTT:** That's correct.

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

16 **MR. SHERRIFF-SCOTT:** The latter, Mr.

17 MacLean, was August 23<sup>rd</sup> according to your chronology.

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

19 **MR. SHERRIFF-SCOTT:** All right.

20 Now, and then I put to you that by September  
21 11<sup>th</sup>, you had already retained Mr. Geoffrey and instructed  
22 him to send a letter, which he did in fact, on September  
23 13<sup>th</sup> of that month. I wanted to draw that to your  
24 attention, because you were expressing some lack of  
25 familiarity with it. So that is the Bates doc 738003.

1                   **THE COMMISSIONER:** Which will become Exhibit  
2                   248.

3                   **MR. SHERRIFF-SCOTT:** Thank you,  
4                   Commissioner.

5                   **THE COMMISSIONER:** Two-forty-seven (247)  
6                   being the handwritten note of Mr. Morrisette.

7                   So 248 is a letter from the firm of  
8                   Frederick -- is it Logan?

9                   **MR. SHERRIFF-SCOTT:** Cogan.

10                  **THE COMMISSIONER:** Cogan -- sorry -- and  
11                  Associates, dated September 13<sup>th</sup>, 1995 to a Michael Hebert  
12                  from Bryce Geoffrey.

13                  --- **EXHIBIT NO./PIÈCE NO. P-248:**

14                                 Letter from Bryce Geoffrey to Michael  
15                                 Hebert - September 13, 1995

16                  **MR. SHERRIFF-SCOTT:** Yes. Thank you,  
17                  Commissioner.

18                                 Just take a moment, sir, and read that.

19                                 **(SHORT PAUSE/COURTE PAUSE)**

20                  **MR. MacDONALD:** Okay.

21                  **MR. SHERRIFF-SCOTT:** Okay.

22                                 So within three to four weeks time, you've  
23                                 seen Mr. Adams, you'd seen Mr. MacLean and you'd seen Mr.  
24                                 Geoffrey and had instructed him to and he did send a letter  
25                                 which basically told these solicitors that you were

1 intending to sue the Diocese and asking them for the  
2 acceptance of service of the statement of claim, correct?

3 **MR. MacDONALD:** Correct.

4 **MR. SHERRIFF-SCOTT:** That was made on your  
5 instructions?

6 **MR. MacDONALD:** I would imagine so.

7 **MR. SHERRIFF-SCOTT:** All right. Insofar as  
8 your letter to Father Maloney is concerned, he did not  
9 agree to your request to keep the matter between yourself  
10 and himself, did he?

11 **MR. MacDONALD:** No.

12 **MR. SHERRIFF-SCOTT:** He sent it directly to  
13 the police?

14 **MR. MacDONALD:** Correct.

15 **MR. SHERRIFF-SCOTT:** He sent it directly to  
16 the CAS, as you now know?

17 **MR. MacDONALD:** As I now know.

18 **MR. SHERRIFF-SCOTT:** And the day after he  
19 got it, he wrote back to you?

20 **MR. MacDONALD:** I guess so, yes.

21 **MR. SHERRIFF-SCOTT:** And if we could turn up  
22 Exhibit 202? It's his response. Two zero three (203), I'm  
23 sorry Commissioner.

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

25 **MR. SHERRIFF-SCOTT:** Just tell me when

1       you're there.

2                   **MR. MacDONALD:** Okay.

3                   **MR. SHERRIFF-SCOTT:** So he told you that he  
4       had alerted the police and hoped you would cooperate with  
5       the authorities?

6                   **MR. MacDONALD:** Correct.

7                   **MR. SHERRIFF-SCOTT:** And this is several  
8       days before you spoke to the police officer who called you  
9       following your receipt of Father Kevin's letter?

10                  **MR. MacDONALD:** Can you say that again  
11       please?

12                  **MR. SHERRIFF-SCOTT:** You'll remember when I  
13       went to -- we needn't turn it up if you can remember, the  
14       police officer's notes were dated August 21<sup>st</sup> and recorded a  
15       phone call discussion with you and you said you were  
16       expecting the officer's call knowing that Father Kevin had  
17       sent your letter to the police. Correct?

18                  **MR. MacDONALD:** Probably.

19                  **MR. SHERRIFF-SCOTT:** All right. I want you  
20       to be comfortable with your answers, Exhibit 234, if we  
21       could turn that up; it's the police officer's notes.

22                               And the marginal note is August 21<sup>st</sup>, in the  
23       middle of the first page, "At 10:21 Mr. MacDonald ..." this  
24       is what I asked you to read earlier this morning; where it  
25       says that you wanted to go through proper channels but to

1 discuss this with your lawyer first.

2 MR. MacDONALD: Okay.

3 MR. SHERRIFF-SCOTT: Okay. Just to situate  
4 you in the chronology, sir, this discussion of August 21<sup>st</sup>  
5 takes place after, you'll agree with me, Kevin Maloney has  
6 given your statement to the police because they are calling  
7 you in response to receiving it.

8 MR. MacDONALD: Correct.

9 MR. SHERRIFF-SCOTT: All right. And so  
10 Father Kevin's asking you to cooperate with the  
11 authorities, correct?

12 MR. MacDONALD: Correct.

13 MR. SHERRIFF-SCOTT: All right. Now, you  
14 testified last month that when you got the protocol, excuse  
15 me, this letter from Father Kevin which is Exhibit 203,  
16 there was attached to it, the Diocese and protocol which  
17 was marked as appendix to Exhibit 203. It's up on the  
18 screen for you now.

19 And your testimony, as I understood it, is  
20 you got this together with Father Kevin's written response,  
21 sir.

22 MR. MacDONALD: Correct.

23 MR. SHERRIFF-SCOTT: And you read it?

24 MR. MacDONALD: Correct.

25 MR. SHERRIFF-SCOTT: All right. And so when

1       you got Father Kevin's response, you knew, presumably, that  
2       there was a possibility that you might get some counselling  
3       from the Diocese. Correct?

4                   **MR. MacDONALD:** Correct.

5                   **MR. SHERRIFF-SCOTT:** All right. So when you  
6       mailed your letter to Father Kevin or when you left it at  
7       his location, you testified you left the original first  
8       page at the post office.

9                   **MR. MacDONALD:** Correct.

10                  **MR. SHERRIFF-SCOTT:** And you forgot it there  
11       and later learned from the Post Office personnel that  
12       because Kevin Maloney's name was on it, they had given it  
13       to him.

14                  **MR. MacDONALD:** Correct.

15                  **MR. SHERRIFF-SCOTT:** And so, it's in that  
16       environment in which you called Kevin Maloney several times  
17       and left messages.

18                  **MR. MacDONALD:** Once.

19                  **MR. SHERRIFF-SCOTT:** Once. All right. Now  
20       I just want to switch gears for a moment here and talk  
21       about Mr. Silmser. I think we agree that you've know Mr.  
22       Silmser for a goodly number of years. Correct?

23                  **MR. MacDONALD:** Correct.

24                  **MR. SHERRIFF-SCOTT:** And that you've been  
25       friends for some time.



1                   **MR. MacDONALD:** Correct.

2                   **MR. SHERRIFF-SCOTT:** Now in Mr. Silmser's  
3 application for funding before this Inquiry, his lawyer  
4 said, and we needn't turn it up, but:

5                               "Mr. Silmser is damaged goods, he  
6 trusts almost no one with few  
7 exceptions".

8                   Would that be a fair characterization?

9                   **MR. GEOFFREY:** Excuse me, Mr. Sherriff-  
10 Scott.

11                   Now, Mr. Commissioner, I am going to just  
12 rise at this point in time and I am going to object to that  
13 question. The question is premised on a letter that was  
14 written by Mr. Silmser's counsel in connection with his  
15 application for funding, that's not anything that this  
16 witness has seen nor do I think it would be proper for him  
17 to comment on a characterization of Mr. Silmser that  
18 someone else has made. He can certainly be asked his  
19 opinion with respect to Mr. Silmser but I don't think the  
20 format of the questioning is proper and my objection is  
21 based on that.

22                   **THE COMMISSIONER:** Thank you.

23                   **MR. SHERRIFF-SCOTT:** Thank you. I don't  
24 intend to make the letter an exhibit. My question is "Is  
25 that a fair characterization of Mr. Silmser?" insofar as

1 Mr. MacDonald is concerned, I am content with that.

2 **THE COMMISSIONER:** So someone has  
3 characterized Mr. Silmsler as being damaged goods.

4 **MR. SHERRIFF-SCOTT:** Well, I am more  
5 concerned with the question of he trusts no one.

6 **THE COMMISSIONER:** Okay.

7 **MR. SHERRIFF-SCOTT:** And I really want the  
8 witness to comment on that and to tell us whether or not he  
9 thinks that's a reasonably accurate portrayal from his  
10 point of view of Mr. Silmsler, at the time at least.

11 **MR. MacDONALD:** At the time?

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

13 **THE COMMISSIONER:** I am sorry. At what time  
14 are we, 1995?

15 **MR. SHERRIFF-SCOTT:** Oh, it's 1995, yes I am  
16 sorry. This is in around the August '95 period.

17 **MR. MacDONALD:** That's probably fair.

18 **MR. SHERRIFF-SCOTT:** Thank you. So when you  
19 reacquainted yourself with Mr. Silmsler in August, is it  
20 fair to say that he was expressing a fair amount of anger  
21 about the experiences he had been through?

22 **MR. MacDONALD:** He has always maintained  
23 anger through.

24 **MR. SHERRIFF-SCOTT:** Yes, there is no  
25 mystery here, I understand that there is a concern about

1       this but I just want to get this from your impression  
2       because you interacted with him as events unfolded. And I  
3       just want to fairly understand your view of him from the  
4       point of view of what happened to you and how it affected  
5       what happened to you. So, I don't think it's  
6       controversial. So he was a person who was expressing a lot  
7       of anger, frustration and pain about these issues when you  
8       reacquainted yourself in August of 1995.

9                   **MR. MacDONALD:** That would be fair.

10                  **MR. SHERRIFF-SCOTT:** All right. And in your  
11       letter to Father Kevin, you said you did not want to go  
12       through the same kind of experiences he had, implying that  
13       those experiences had obviously been difficult, correct?  
14       In your letter to Father Kevin ---

15                  **MR. MacDONALD:** I hadn't spoken to Dave.

16                  **MR. SHERRIFF-SCOTT:** No, I am not suggesting  
17       you had but you obviously had inferred from some source  
18       that the experiences he had gone through were difficult.

19                  **MR. MacDONALD:** That I could imagine the  
20       experiences he had gone through had been difficult.

21                  **MR. SHERRIFF-SCOTT:** All right. So, on the  
22       subject of trust, he was expressing a lack of trust for  
23       example the church?

24                  **MR. MacDONALD:** Probably.

25                  **MR. SHERRIFF-SCOTT:** The police?

1                   **MR. MacDONALD:** Probably.

2                   **MR. SHERRIFF-SCOTT:** And Charles MacDonald  
3 obviously. He wouldn't be suggesting he was expressing  
4 feelings of trust for Charles MacDonald at the time.

5                   **MR. MacDONALD:** Well, you're asking me if  
6 Charles MacDonald's name was mentioned during that time.

7                   **MR. SHERRIFF-SCOTT:** All right, sir. And no  
8 doubt there were discussions that followed eventually where  
9 it was and are you suggesting that you never spoke to Mr.  
10 Silmser about Charles MacDonald.

11                   **MR. MacDONALD:** I know you may find that  
12 difficult to believe ---

13                   **MR. SHERRIFF-SCOTT:** Never mind what I  
14 believe, sir, is that your evidence?

15                   **MR. MacDONALD:** We've never shared our  
16 stories with one another.

17                   **MR. SHERRIFF-SCOTT:** All right. Are you  
18 suggesting that you didn't tell Mr. -- you shared the same  
19 lawyer, sir, who was present where you and Mr. Silmser were  
20 in the room and you were giving instructions to your lawyer  
21 about suing the Diocese. Surely you communicated to some  
22 degree with Mr. Silmser.

23                   **MR. MacDONALD:** I was communicating with my  
24 lawyer.

25                   **MR. SHERRIFF-SCOTT:** All right.

1                   **THE COMMISSIONER:** There are a lot of  
2 questions in there, Mr. Sherriff-Scott.

3                   Were you ever in the same room with your  
4 lawyer and Mr. Silmsen talking about the abuse that you  
5 suffered, that you alleged to have suffered at the hands of  
6 Father MacDonald?

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

8                   **MR. SHERRIFF-SCOTT:** That's possible,  
9 surely?

10                  **MR. MacDONALD:** I really don't know.

11                  **MR. SHERRIFF-SCOTT:** You don't recall on  
12 September 11<sup>th</sup> ---

13                  **MR. MacDONALD:** I remember Dave being there;  
14 I remember Bryce being there; were we all together as I was  
15 talking to Bryce, I can't recall.

16                  **MR. SHERRIFF-SCOTT:** All right, fair enough,  
17 sir. Really focus still on Mr. Silmsen, okay. I think you  
18 agreed with me that he wasn't trusting the police or the  
19 church, he was a person who was expressing or manifesting  
20 anger, frustration, et cetera regarding all of these issues  
21 and I suggest to you that he was a person whose anger or  
22 frustration easily flared up when he was talking about  
23 these types of issues at the time, in 1995.

24                  **MR. MacDONALD:** Not necessarily.

25                  **MR. SHERRIFF-SCOTT:** All right. Mr.

1 Silmsers, according to your -- well not necessarily, I just  
2 picked up on that, surely are you suggesting he didn't  
3 display any of those emotions?

4 **MR. MacDONALD:** He wasn't angry all the  
5 time.

6 **MR. SHERRIFF-SCOTT:** No, I didn't suggest he  
7 was angry all the time. What I suggested is when you may  
8 have been discussing issues surrounding these points such  
9 as litigation, what was happening in the community, the  
10 issue of the church, et cetera that he flared up and  
11 displayed anger from time to time.

12 **MR. MacDONALD:** Absolutely.

13 **MR. SHERRIFF-SCOTT:** And you understood him  
14 to be very angry about these issues?

15 **MR. MacDONALD:** Absolutely.

16 **MR. SHERRIFF-SCOTT:** All right, that's all I  
17 was trying to get at.

18 Now, on August 19<sup>th</sup>, he came to your house,  
19 according to your chronology at Exhibit 204 which is the  
20 August 19 entry, if we can turn that up please, 204; that's  
21 the witness' handwritten material.

22 You have that sir?

23 **MR. MacDONALD:** Yes, sir.

24 **MR. SHERRIFF-SCOTT:** Okay, you'll remember  
25 your entry there that you spend the day with Mr. Silmsers on

1 the 19<sup>th</sup>.

2 MR. MacDONALD: Correct.

3 MR. SHERRIFF-SCOTT: And that looks like  
4 about 10 hours he was over at your house with his family.

5 MR. MacDONALD: Correct.

6 MR. SHERRIFF-SCOTT: Okay. Now there is a  
7 reference there on the same day "Called Father Maloney, 9  
8 a.m., left message". You see that?

9 MR. MacDONALD: Yes.

10 MR. SHERRIFF-SCOTT: And you said you called  
11 him once but you'll see the next entry is August 20<sup>th</sup>. "I  
12 called Father Maloney, left message". So you must have  
13 called him at least twice.

14 MR. MacDONALD: Okay.

15 MR. SHERRIFF-SCOTT: Is that fair?

16 MR. MacDONALD: That's fair.

17 MR. SHERRIFF-SCOTT: Okay. Nothing turns on  
18 the number of times, I just want to get it right.

19 And so, you know now that not only you  
20 called him but also Mr. Silmsen called him too.

21 MR. MacDONALD: I am aware of that.

22 MR. SHERRIFF-SCOTT: All right. By this  
23 point in time that is after your first lengthy sit down  
24 with Mr. Silmsen, you knew that he was in current  
25 litigation with Mr. MacDonald and the church.

1                   **MR. MacDONALD:** Probably.

2                   **MR. SHERRIFF-SCOTT:** Okay. I have it in the  
3 transcript where you admit that but -- and I can take you  
4 to it if you wish.

5                   **MR. MacDONALD:** Okay, no that's correct.

6                   **MR. SHERRIFF-SCOTT:** Do you accept that?

7                   **MR. MacDONALD:** Yes, I accept that.

8                   **MR. SHERRIFF-SCOTT:** All right. And as soon  
9 as you met with Mr. Silmser almost immediately thereafter,  
10 he not only called Father Maloney but he began calling the  
11 police too, didn't he?

12                   **MR. MacDONALD:** I heard that.

13                   **MR. SHERRIFF-SCOTT:** Okay. If we can go  
14 back to Exhibit 234, at the marginal note, the bottom of  
15 the page, August 22<sup>nd</sup>. Do you have that, sir?

16                   **MR. MacDONALD:** Yes.

17                   **MR. SHERRIFF-SCOTT:** Bottom of the page, it  
18 says, looks like a phone call from David Silmser:

19                                "Is offering his assistance in this  
20                                matter, anything if this is hushed up  
21                                ..."

22                                Or something to that effect ---

23                   **MR. CALLAGHAN:** Sir, might I object?

24                                My understanding from this document is that  
25 it's out of order and that notation continues on the



1 following page, just so that it's clear. I think it's been  
2 either photocopied in the wrong order.

3 **THE COMMISSIONER:** Yes.

4 **MR. SHERRIFF-SCOTT:** August 22<sup>nd</sup>, yes thank  
5 you.

6 I am sorry, Mr. MacDonald, it looks like if  
7 you flip over the next page, it says:

8 "Offering his assistance in this matter  
9 anything that he can do to help his  
10 phone number is ..., living in Manotick.  
11 John told him that he wrote a letter to  
12 Father Maloney and ... [something] this  
13 letter including the first page from  
14 original ..."

15 Et cetera. So Mr. Silmser has taken up your  
16 aura as it were with the police and calling the police and  
17 he called Father Maloney as well, as you now know.

18 **MR. MacDONALD:** As I now know.

19 **MR. SHERRIFF-SCOTT:** Okay. And you'll see  
20 then that when you learn of these phone calls, the August  
21 23<sup>rd</sup> reference on that same exhibit, the pages are not  
22 numbered but if you go to August 23<sup>rd</sup>, which is toward the  
23 top of the page, preceding page I believe, yes, towards the  
24 top, you'll see August 23<sup>rd</sup> is the second time entry, and  
25 this has been put to you by a number of counsel. Toward

1 the twelve-fifteen right-hand marginal note. See the time  
2 in the right margin, sir?

3 **MR. MacDONALD:** Yes.

4 **MR. SHERRIFF-SCOTT:** And this is the thing  
5 where you say you -- you talk about putting distance  
6 between yourself and Mr. Silmsers. "Advised him of David  
7 Silmsers's phone calls". In other words, the police officer  
8 is now telling you that he's been contacted by David  
9 Silmsers.

10 Correct?

11 **MR. MacDONALD:** Correct.

12 **MR. SHERRIFF-SCOTT:** "I won't confirm that  
13 he was a victim." In other words, he's not going to tell  
14 him anything about your case without your permission.

15 "He knows that Dave is calling and  
16 wants to distance himself from Dave."

17 And I suggest to you what that means is not  
18 that you were distancing yourself from David Silmsers's  
19 allegations of abuse but that you were concerned about his,  
20 shall we say, temperamental demeanour.

21 Is that fair?

22 **MR. MacDONALD:** That's a fair way to put it.

23 **MR. SHERRIFF-SCOTT:** All right.

24 Mr. Silmsers reacted and did things verbally,  
25 et cetera, that were less than up to standard rules of

1 politeness.

2 Is that fair?

3 **MR. MacDONALD:** For the circumstances he was  
4 in?

5 **MR. SHERRIFF-SCOTT:** Well, no, no, that's  
6 not what I mean. I mean he could be very abrasive.

7 **MR. MacDONALD:** We know what we're driving  
8 at. Both of us know what we're driving at here ---

9 **MR. SHERRIFF-SCOTT:** Do you agree ---

10 **MR. MacDONALD:** --- Dave was angry.

11 **MR. SHERRIFF-SCOTT:** Yes. All right.

12 And do you know of any reason why Mr.  
13 Silmsler would be calling the church, Father Maloney,  
14 immediately after meeting with you, except perhaps to  
15 discuss your issue?

16 **MR. MacDONALD:** No.

17 **MR. SHERRIFF-SCOTT:** Okay, so we have you  
18 leaving two messages for Father Maloney and then we have  
19 Mr. Silmsler calling Mr. Maloney and calling the police too.

20 I suggest to you that it's in that context  
21 that you know that Kevin Maloney asked the police to have  
22 both of you stop calling, although at the time you were  
23 saying that you're only aware that this request was being  
24 made to you.

25 Is that fair?

1                   **MR. MacDONALD:** I think at the time, yes.

2                   **MR. SHERRIFF-SCOTT:** Okay.

3                   You now know they made a request to Mr.  
4                   Silmsner too.

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

6                   **MR. SHERRIFF-SCOTT:** And if we can go to  
7                   Exhibit 204 at the second page, the August 24<sup>th</sup> entry,  
8                   you'll see "8:30"? You see that? "Dave called, August  
9                   24<sup>th</sup>." Are you with me, sir?

10                  **MR. MacDONALD:** Yes.

11                  **MR. SHERRIFF-SCOTT:** Saying that:

12                                 "Saying same, said he was going to call  
13                                 police station; 8:40 Dave called back,  
14                                 said that he gave someone S-H-I-T".

15                  He was talking about leaving out the police  
16                  people, right?

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

18                  **MR. SHERRIFF-SCOTT:** Yes, okay.

19                                 So he was displaying his usual colours here  
20                                 in terms of being angry and talking to the police in that  
21                                 fashion.

22                                 Correct?

23                  **MR. MacDONALD:** Correct.

24                  **MR. SHERRIFF-SCOTT:** All right, and on the  
25                  Friday you'll see he's still expressing anger about it,

1 right? August 25<sup>th</sup>?

2 MR. MacDONALD: Really?

3 MR. SHERRIFF-SCOTT: You're not surprised,  
4 right?

5 MR. MacDONALD: Yes.

6 MR. SHERRIFF-SCOTT: Now in your letter to  
7 Father Kevin -- I don't want to have you jumping round  
8 exhibits but if we can turn back to Exhibit 202 we need to  
9 just clarify some points here. Just tell me when you're  
10 there.

11 MR. MacDONALD: Okay.

12 MR. SHERRIFF-SCOTT: You have that?

13 The bottom of the first page, you say:

14 "I must say that I do know the person  
15 that has brought this to light".

16 In that, you were referring to Mr. Silmser  
17 there, weren't you? Correct?

18 MR. MacDONALD: Correct.

19 MR. SHERRIFF-SCOTT: Sorry, were you with me  
20 there?

21 MR. MacDONALD: No, she's not.

22 MR. SHERRIFF-SCOTT: The bottom of the first  
23 page. "I must say..." the third line from the bottom, "...  
24 that I do know...".

25 Okay, so you agreed with me that you knew

1 that you were referring to Mr. Silmser and then the top of  
2 the next page, sir, you say, "Dave and I were friends for  
3 many years".

4 Correct?

5 **MR. MacDONALD:** Correct.

6 **MR. SHERRIFF-SCOTT:** All right. And then  
7 you refer to him throughout the rest of the letter as  
8 "Dave".

9 Correct?

10 **MR. MacDONALD:** Correct.

11 **MR. SHERRIFF-SCOTT:** Implying to the reader  
12 a level of familiarity which allows you to use that.

13 Correct?

14 **MR. MacDONALD:** Correct.

15 **MR. SHERRIFF-SCOTT:** All right.

16 So there is no question that when Father  
17 Kevin got this letter, that is to say your letter, and then  
18 started getting calls from you and Mr. Silmser that it  
19 would be reasonable for him to conclude that there may be  
20 some connection between you and Mr. Silmser in terms of the  
21 calls.

22 Isn't that fair?

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

24 **MR. SHERRIFF-SCOTT:** You don't know, all  
25 right.

1 Well, your letter invited Father Kevin to  
2 conclude that you and Mr. Silmsler were friends, didn't it?

3 **MR. MacDONALD:** If that was his conclusion,  
4 yes.

5 **MR. SHERRIFF-SCOTT:** Well, that's what say.

6 **MR. MacDONALD:** I'm not denying, yes.

7 **MR. SHERRIFF-SCOTT:** Okay, and so it's  
8 perfectly reasonable for Father Kevin to have associated  
9 you when the two of you were calling.

10 Wouldn't that be right?

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

12 **MR. SHERRIFF-SCOTT:** Okay, and you have to  
13 admit, sir, that your August 11<sup>th</sup> letter saying, "Don't make  
14 me push this any further" is open to the interpretation you  
15 were looking for a settlement.

16 **MR. MacDONALD:** I see where you're going.

17 **MR. SHERRIFF-SCOTT:** You don't agree with  
18 me?

19 **MR. MacDONALD:** I can't agree with you ---

20 **MR. SHERRIFF-SCOTT:** All right.

21 **MR. MacDONALD:** --- because that's not what  
22 was -- that's not what was being said.

23 **MR. SHERRIFF-SCOTT:** All right, and when you  
24 were contacted by the police, we know you agreed to stop  
25 calling Father Kevin, right?

1                   **MR. MacDONALD:** Of course.

2                   **MR. SHERRIFF-SCOTT:** But Mr. Silmsers didn't  
3 react that way.

4                   **MR. MacDONALD:** Well ---

5                   **MR. SHERRIFF-SCOTT:** Okay?

6                   That would be perfectly consistent with his  
7 temperament as you knew it.

8                   **MR. MacDONALD:** Probably.

9                   **MR. SHERRIFF-SCOTT:** All right, and so I  
10 really don't want to be unfair to you. What I'm suggesting  
11 here is you were concerned when the police said, "Don't  
12 call Father Kevin". But what you didn't know at the time  
13 is that your friend, Mr. Silmsers, who you've described and  
14 agreed with me was a person who expressed great anger at  
15 these events and was doing so to the police on the phone,  
16 was calling Father Kevin as well.

17                   **MR. MacDONALD:** Okay.

18                   **MR. SHERRIFF-SCOTT:** Okay?

19                   And so it may have been reasonable for  
20 Father Kevin to be concerned sufficiently to do something  
21 like that, not as a reflection on you but given the  
22 circumstances.

23                   Isn't that fair?

24                   **MR. MacDONALD:** I suppose that's fair.

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



1 All right, now, I want to switch again to  
2 another subject, which is the subject of offering help,  
3 counselling.

4 When we discussed your initial response from  
5 Kevin Maloney in writing with the attached protocol, which  
6 you agreed you read and from which you knew there were  
7 potentially counselling services available, you met with  
8 Mr. MacLean on August 23<sup>rd</sup>, correct?

9 **MR. MacDONALD:** Correct.

10 **MR. SHERRIFF-SCOTT:** And you instructed him  
11 to write a letter seeking such counselling from the  
12 Diocese.

13 **MR. MacDONALD:** Correct.

14 **MR. SHERRIFF-SCOTT:** Okay, and just so that  
15 the record is clear on that, that is Bates Doc number  
16 738002, August 28<sup>th</sup>, 1995, so just you'll see it. It's  
17 copied to you and written under your instruction no doubt.  
18 That's the document. It's only one page. Sorry, it's up.

19 **THE COMMISSIONER:** Oh, I know it's up but  
20 we need the paper copy to make it ---

21 **MR. SHERRIFF-SCOTT:** Oh, I'm sorry; sorry.

22 **THE REGISTRAR:** I didn't get a ---

23 **THE COMMISSIONER:** We'll get a copy of it at  
24 the break. It will be known as Exhibit Number 249 which is  
25 a letter to St. Columban's Parish dated ---

1                   **MR. SHERRIFF-SCOTT:** August 28<sup>th</sup>. I'm sorry,  
2           Commissioner.

3                   **THE COMMISSIONER:** No, no, it's ---

4                   **MR. SHERRIFF-SCOTT:** Nineteen-ninety-five  
5           (1995).

6                   **THE COMMISSIONER:** All right.

7                   **MR. MacDONALD:** My lawyer has hard copies of  
8           it.

9                   **THE COMMISSIONER:** That's okay. Oh, you do  
10          have? Okay. We'll take those.

11                   So, Exhibit Number 249.

12          **---EXHIBIT NO./PIÈCE NO. P-249:**

13                   Document No. 738002: Letter to St.  
14                   Columban's Parish dated August 28, 1995

15                   **THE COMMISSIONER:** I can't see it though.

16                   **MR. SHERRIFF-SCOTT:** It's up on the screen.

17                   **THE COMMISSIONER:** Well, not all of it but  
18          you're going to ask going to ask further questions ---

19                   **MR. SHERRIFF-SCOTT:** Yes, I'm going to talk  
20          about the second paragraph, Commissioner.

21                   **THE COMMISSIONER:** Okay.

22                   **MR. SHERRIFF-SCOTT:** Okay, have you  
23          acquainted yourself with that document, Mr. MacDonald?

24                   **MR. MacDONALD:** Yes.

25                   **MR. SHERRIFF-SCOTT:** And you will see in the

1 second paragraph commencing in the second line:

2 "I have discussed various options with  
3 John..."

4 That is you, correct?

5 **MR. MacDONALD:** Correct.

6 **MR. SHERRIFF-SCOTT:** And just stopping  
7 there. The various options include potential litigation,  
8 reporting to the police, et cetera.

9 **MR. MacDONALD:** Correct.

10 **MR. SHERRIFF-SCOTT:** "... and he has asked me  
11 to write to you with a view to  
12 determining if possible what help and  
13 support is available by way of the  
14 Diocese in accordance with Phase 5 of  
15 the Guidelines on Sexual Abuse, a copy  
16 of which you were kind enough to  
17 provide him."

18 So you instructed Mr. MacLean to make this  
19 letter and to write to the Diocese which he did. Correct?

20 **MR. MacDONALD:** Correct.

21 **MR. SHERRIFF-SCOTT:** And at the same time,  
22 you were discussing your other options with him.

23 Correct?

24 **MR. MacDONALD:** Correct.

25 **MR. SHERRIFF-SCOTT:** Now, if we can next go

1 to -- we have to wait for the mistress of ceremonies here  
2 to -- Mr. Abell's notes, which are I believe we marked  
3 Exhibit 241.

4 **THE COMMISSIONER:** Two-forty-one (241)?

5 **MR. SHERRIFF-SCOTT:** Two-forty-one (241), I  
6 believe, from last day.

7 Okay, I want to go to the last page, which  
8 is marked as page number 0292 in the upper right corner.  
9 Second-last page perhaps? My copy has stamped page numbers  
10 on it.

11 **THE COMMISSIONER:** Yes.

12 **MR. SHERRIFF-SCOTT:** The time entry is 26-  
13 09-95, so it would be the next page I'd expect. Perhaps  
14 the next still.

15 **THE COMMISSIONER:** Yes -- 151.

16 **MR. SHERRIFF-SCOTT:** There we are.

17 Okay, so as I understand, later in the month  
18 you met with Mr. Abell and this looks like the end of  
19 September here, 26-09.

20 Correct?

21 **MR. MacDONALD:** So later in the next month?

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

23 **MR. MacDONALD:** Correct.

24 **MR. SHERRIFF-SCOTT:** Right, I'm sorry, I was  
25 at August 28<sup>th</sup>, thank you, and it says here -- looks like:

1 "Phone call to JM..."

2 That's you.

3 "... does he want to approach the Diocese  
4 for counselling dollars. It says he  
5 had approached Walter MacLean, lawyer,  
6 who wrote the Bishop asking for help -  
7 call back - insurance would cover it.  
8 JM then got involved in Silmsner suit  
9 (Bryce Geoffrey), dropped MacLean -  
10 counselling issue also got dropped".

11 Does that comport with your recollection,  
12 sir? Mr. Abell ---

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

14 **MR. SHERRIFF-SCOTT:** You can't recall, all  
15 right.

16 **MR. MacDONALD:** Did this take place? Did he  
17 place that phone call to me? Absolutely.

18 **MR. SHERRIFF-SCOTT:** You don't -- so would  
19 you agree that the best recollection, independent  
20 recollection, of what you may have said at the time would  
21 be Mr. Abell's notes? Since you don't have an independent  
22 recollection of the phone call?

23 **MR. MacDONALD:** I just don't know where this  
24 "drop MacLean" ---

25 **MR. SHERRIFF-SCOTT:** Well, you ---

1                   **MR. MacDONALD:** I changed lawyers, yes.

2                   **MR. SHERRIFF-SCOTT:** Yes, I think that's  
3 what it refers to.

4                   **MR. MacDONALD:** You know, but in turn I  
5 didn't think that the dropping, the asking for help or  
6 asking for help got dropped at the same time also.

7                   **MR. SHERRIFF-SCOTT:** I don't think -- I  
8 think what is fairly meant here, subject to you putting a  
9 different interpretation on it I guess, Mr. Abell will one  
10 day tell us, but his notes seem to suggest that you  
11 instructed Mr. MacLean to write, as we've seen, right?

12                   **MR. MacDONALD:** Correct.

13                   **MR. SHERRIFF-SCOTT:** And then he got some  
14 response back saying that the insurance would cover it, but  
15 you then went to Mr. Geoffrey and the issue sort of got  
16 sidelined because you were changing lawyers.

17                   **MR. MacDONALD:** See, and there's where  
18 things get a little screwy. I don't remember getting that  
19 "insurance would cover it" thing.

20                   **MR. SHERRIFF-SCOTT:** Okay, well that ---

21                   **MR. MacDONALD:** Like, really this is  
22 probably the first time I hear of this "insurance would  
23 cover it".

24                   **MR. SHERRIFF-SCOTT:** All right. So you have  
25 no independent recollection of this discussion?

1                   **MR. MacDONALD:** Of this insurance thing, no.

2                   **MR. SHERRIFF-SCOTT:** Of this discussion with  
3                   Mr. Abell, sir.

4                   **MR. MacDONALD:** About him calling the Bishop  
5                   to ask for help? I certainly do remember.

6                   **MR. SHERRIFF-SCOTT:** Okay.

7                   Do you remember this discussion; this is a  
8                   phone call on September 26<sup>th</sup>. Do you have an independent  
9                   recollection of this phone call?

10                  **MR. MacDONALD:** Yes.

11                  **MR. SHERRIFF-SCOTT:** All right.

12                  Is it not consistent with what Mr. Abell has  
13                  recorded as ---

14                  **MR. MacDONALD:** I -- seeing that, I don't  
15                  know.

16                  **MR. SHERRIFF-SCOTT:** Okay, that's fine.

17                  It's possible, sir?

18                  **MR. MacDONALD:** I suppose.

19                  **MR. SHERRIFF-SCOTT:** Okay.

20                  All right, now, we've seen the letter to Mr.  
21                  Hebert and Mr. Anniss which is per Mr. Geoffrey. I believe  
22                  it's 248. Yes, 248.

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

24                  **MR. SHERRIFF-SCOTT:** This is the letter from  
25                  your counsel to Mr. Hebert and Mr. Anniss.

1 Are we able to proceed Commissioner?

2 **THE COMMISSIONER:** Yes.

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

4 You instructed Mr. Geoffrey or in  
5 collaboration with him, this letter was written and Peter  
6 Anniss, you know, acted for the Diocese?

7 **MR. MacDONALD:** Correct.

8 **MR. SHERRIFF-SCOTT:** And Mr. Hebert acted  
9 for Father Charles, correct?

10 **MR. MacDONALD:** Correct.

11 **MR. SHERRIFF-SCOTT:** You learned that later  
12 when ---

13 **MR. MacDONALD:** Correct.

14 **MR. SHERRIFF-SCOTT:** --- they examined you  
15 for discovery. And so just tracing the correspondence, we  
16 have Mr. MacLean's August 28<sup>th</sup> letter but in this letter  
17 there's no mention of anything with respect to you seeking  
18 counselling?

19 **MR. MacDONALD:** In which letter?

20 **MR. SHERRIFF-SCOTT:** In this letter of  
21 September 13<sup>th</sup>, 1995 when you go to Mr. Geoffrey on  
22 September 11<sup>th</sup>.

23 **MR. MacDONALD:** What does Phase 5 talk  
24 about?

25 **MR. SHERRIFF-SCOTT:** I'm sorry, sir, I'm not



1 on Mr. MacLean's letter. What I'm -- I'm on Mr. Geoffrey's  
2 letter of September ---

3 MR. MacDONALD: Okay, sorry about that.

4 MR. SHERRIFF-SCOTT: It's my mistake.

5 MR. MacDONALD: Okay.

6 MR. SHERRIFF-SCOTT: So you're with me?

7 MR. MacDONALD: Yes.

8 MR. SHERRIFF-SCOTT: You meet with Mr.  
9 Geoffrey on the 11<sup>th</sup>; the product that comes out of your  
10 meeting is this letter, at least initially, right?

11 MR. MacDONALD: Okay.

12 MR. SHERRIFF-SCOTT: And it doesn't say  
13 anything about Mr. MacLean or counselling. Correct?

14 MR. MacDONALD: Correct.

15 MR. SHERRIFF-SCOTT: Notwithstanding that  
16 Mr. Anniss was acting for the Diocese. Correct?

17 MR. MacDONALD: Correct.

18 MR. SHERRIFF-SCOTT: All right. Did you  
19 tell Mr. Geoffrey about Mr. MacLean's letter?

20 MR. MacDONALD: I don't remember.

21 MR. SHERRIFF-SCOTT: Okay. Now, the next  
22 document I want to turn to is Document 738004, September  
23 15, 1995 Response.

24 THE COMMISSIONER: Which would be a letter  
25 from?

1                   **MR. SHERRIFF-SCOTT:** Peter Anniss to Bryce  
2                   Geoffrey.

3                   **THE COMMISSIONER:** All right and we have  
4                   that. And that will be Exhibit Number 250. And it's a  
5                   letter dated?

6                   **MR. SHERRIFF-SCOTT:** September 15<sup>th</sup>, 1995.

7                   **---EXHIBIT NO./PIÈCE NO P-250:**

8                   Letter from Peter B. Anniss to Bryce  
9                   Geoffrey - September 15, 1995

10                  **THE COMMISSIONER:** Thank you very much.

11                  **MR. SHERRIFF-SCOTT:** Do we need the screen  
12                  or are we content? Okay.

13                  You'll see, sir, I just want you to take a  
14                  moment and read it, it's not very long.

15                  **MR. MacDONALD:** Okay.

16                  **MR. SHERRIFF-SCOTT:** Have you read that sir?

17                  **MR. MacDONALD:** Yes.

18                  **MR. SHERRIFF-SCOTT:** Okay. You'll see that  
19                  Mr. Anniss writes to your current lawyer then who you've --  
20                  you've replaced Mr. MacLean with Mr. Geoffrey by this  
21                  juncture, right?

22                  **MR. MacDONALD:** I suppose so.

23                  **MR. SHERRIFF-SCOTT:** Okay. What you don't  
24                  know is whether you've told Mr. Geoffrey by this juncture  
25                  about Mr. MacLean's letter to the Diocese.

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

2                   **MR. SHERRIFF-SCOTT:** All right, that's fine.

3                   And Mr. Anniss says;

4                                   "I enclose a letter recently received  
5                                   by my client from Mr. MacLean advising  
6                                   that their firm also represents Mr.  
7                                   MacDonald. In accordance with the  
8                                   church's guideline my client wishes to  
9                                   provide help and support if such can be  
10                                  of assistance to Mr. MacDonald and in  
11                                  that regard I would ask that you speak  
12                                  with Mr. MacLean and perhaps get back  
13                                  to me thereafter."

14                   Do you see that?

15                   **MR. MacDONALD:** Yes.

16                   **MR. SHERRIFF-SCOTT:** Okay. And then he says  
17                   he would accept service of a statement of claim. So did  
18                   Mr. Geoffrey give you this letter?

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

20                   **MR. SHERRIFF-SCOTT:** All right. So at least  
21                   by September 15<sup>th</sup> there's a question in Mr. Abell's notes  
22                   about whether or not Mr. MacLean received a response from  
23                   the Diocese saying the insurance would cover it and we have  
24                   then a written response to Mr. Geoffrey, referring to Mr.  
25                   MacLean's letter and agreeing to provide counselling.

1                   **MR. MacDONALD:** Okay.

2                   **MR. SHERRIFF-SCOTT:** This is all in the two-  
3 week period where you change lawyers, right?

4                   **MR. MacDONALD:** Okay.

5                   **MR. SHERRIFF-SCOTT:** Okay?

6                   Now, if we can turn to Bates Doc Number  
7 738005.

8                   **THE COMMISSIONER:** All right and that's  
9 Exhibit 251 which is a letter to Mr. MacLean from Mr.  
10 Geoffrey dated September 18<sup>th</sup>, 1995.

11                   **---EXHIBIT NO./PIÈCE NO P-251:**

12                   Letter from Bryce Geoffrey to Walter MacLean  
13 - September 18, 1995

14                   **MR. SHERRIFF-SCOTT:** Thank you,  
15 Commissioner.

16                   So now, your lawyer here -- do you have that  
17 Mr. MacDonald?

18                   **MR. MacDONALD:** Yes.

19                   **MR. SHERRIFF-SCOTT:** Have you read it?

20                   **MR. MacDONALD:** Yes.

21                   **MR. SHERRIFF-SCOTT:** Now your lawyer, Mr.  
22 Geoffrey is saying that he has been provided now by this  
23 point, on September 18<sup>th</sup>, some three weeks after Mr.  
24 MacLean's letter, with a copy of Mr. MacLean's letter and  
25 he's writing to tell Mr. MacLean effectively that, I assume

1 as a courtesy, that his retainer is over or had you fired  
2 Mr. MacLean by this point? I don't mean fire in a negative  
3 way, terminated his retainer.

4 **MR. MacDONALD:** I don't know if I'd spoken  
5 to him again.

6 **MR. SHERRIFF-SCOTT:** All right.

7 There's no mention of, by this point, the  
8 agreement with the Diocese or the letter of Mr. Anniss  
9 agreeing to provide counselling, is that fair?

10 **MR. MacDONALD:** Correct.

11 **MR. SHERRIFF-SCOTT:** All right. And you  
12 don't know whether or not you got that letter from Mr.  
13 Anniss through your counsel?

14 **MR. MacDONALD:** No.

15 **MR. SHERRIFF-SCOTT:** Now, there doesn't  
16 appear to be any further response from your lawyer to Mr.  
17 Anniss until after you met with Mr. Abell. Are you aware  
18 of Mr. Geoffrey communicating with Mr. Anniss at any other  
19 time, between the date of his letter of September 15<sup>th</sup> and  
20 to and including the time you met with Mr. Abell, towards  
21 the end of September?

22 **MR. MacDONALD:** I'm not aware. I got a lot  
23 of letters from Bryce.

24 **MR. SHERRIFF-SCOTT:** All right.

25 **MR. MacDONALD:** That were forwarded to me.

1                   **MR. SHERRIFF-SCOTT:** Okay.

2                   Now if we can turn -- so we know that you  
3 met with Mr. Abell around the 25<sup>th</sup>.

4                   **MR. MacDONALD:** Correct.

5                   **MR. SHERRIFF-SCOTT:** Of September and after  
6 that he sent another letter to the Bishop asking about  
7 confirmation of these services for counselling. Correct?

8                   **MR. MacDONALD:** Correct.

9                   **MR. SHERRIFF-SCOTT:** All right so just to be  
10 clear and for the record, that is Bates Doc Number 703557.

11                   **THE COMMISSIONER:** Exhibit 252, letter to  
12 Bishop LaRocque from Mr. Abell, dated September 27<sup>th</sup>, 1995.

13                   **---EXHIBIT NO./PIÈCE NO P-252:**

14                   Letter from Richard Abell to Bishop Eugene  
15 LaRocque - September 27, 1995

16                   **MR. SHERRIFF-SCOTT:** Do you have that, Mr.  
17 MacDonald?

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

19                   **MR. SHERRIFF-SCOTT:** Have you scanned that?

20                   **MR. MacDONALD:** Yes.

21                   **MR. SHERRIFF-SCOTT:** Okay, and you know that  
22 promptly in response to this confirmation of the  
23 counselling services were provided, correct?

24                   **MR. MacDONALD:** Correct.

25                   **MR. SHERRIFF-SCOTT:** Okay. Now, if we can

1           then turn to Bates Doc 738006 but I may have this marked as  
2           Exhibit 233.

3                       **THE COMMISSIONER:** What is it that ---

4                       **MR. SHERRIFF-SCOTT:** Yes, I'm sorry,  
5           Commissioner, there's a letter September 28, 1995.

6                       **THE COMMISSIONER:** It is Exhibit 233.

7                       **MR. SHERRIFF-SCOTT:** Okay, from Mr. Anniss  
8           to Mr. Geoffrey. Just take a moment, sir, and look at  
9           that.

10                      **MR. MacDONALD:** Okay.

11                      **MR. SHERRIFF-SCOTT:** Okay so Mr. Anniss says  
12           towards the bottom of the first page; "The Diocese has on  
13           and without prejudice basis offered to pay for any help."

14                      And you understand that -- what they meant  
15           by that is they'll pay for your help it's just without  
16           prejudice to their potential liability. Correct?

17                      **MR. MacDONALD:** Correct.

18                      **MR. SHERRIFF-SCOTT:** "...and any psychological  
19                      help Mr. MacDonald should obtain and in  
20                      that regard I believe he has been  
21                      referred to the Family Counselling  
22                      Service in Cornwall."

23                      I assume, he says to Mr. Geoffrey;

24                      "...that you have no difficulty with this  
25                      and unless I hear back from you the

1 church will proceed to assist Mr.  
2 MacDonald by paying for his counselling  
3 and other related services."

4 Do you know whether Mr. Geoffrey responded  
5 to this?

6 **MR. MacDONALD:** Where did the last part of  
7 that come from?

8 **MR. SHERRIFF-SCOTT:** I'm sorry, it's page 2,  
9 Mr. MacDonald.

10 **THE COMMISSIONER:** Scroll down. Just right  
11 there.

12 **MR. SHERRIFF-SCOTT:** There we are. "I  
13 assume that you..." -- he's talking to your lawyer,  
14 "...that you have no difficulty with this  
15 and that unless I hear back from you,  
16 the church will proceed to assist Mr.  
17 MacDonald by paying for his counselling  
18 and related services."

19 **MR. MacDONALD:** Okay.

20 **MR. SHERRIFF-SCOTT:** Did you get this letter  
21 from Mr. Geoffrey?

22 **MR. MacDONALD:** Probably.

23 **MR. SHERRIFF-SCOTT:** All right.

24 So isn't it fair that what happened here is  
25 you go to Mr. MacLean on your evidence, I grant you there's



1 a dispute about whether or not Mr. MacLean got a response  
2 from the Diocese and we'll hear from Mr. Abell on that, you  
3 have no recollection of it?

4 **MR. MacDONALD:** No.

5 **MR. SHERRIFF-SCOTT:** But then Mr. Anniss  
6 writes, Mr. Geoffrey may or may not even been aware of Mr.  
7 MacLean until later. Right?

8 **MR. MacDONALD:** Correct, although I can't  
9 see me not talking to Bryce about it but anyways.

10 **MR. SHERRIFF-SCOTT:** You don't know.

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

12 **MR. SHERRIFF-SCOTT:** A lot is going on at  
13 the time?

14 **MR. MacDONALD:** Yes.

15 **MR. SHERRIFF-SCOTT:** Right. I think you  
16 told someone you'd lost a lot of weight and you were in bad  
17 shape.

18 **MR. MacDONALD:** Yes.

19 **MR. SHERRIFF-SCOTT:** All right. So one  
20 possible interpretation is that the changing of lawyers  
21 delayed the services as opposed to the Diocese dragging its  
22 feet, isn't that fair?

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

24 **MR. SHERRIFF-SCOTT:** Okay, thank you.

25 Now, I just want to switch to another

1 subject and Commissioner, I'm in your hands for a break.

2 **THE COMMISSIONER:** It's 3:15, unless you're  
3 ready for one.

4 **MR. MacDONALD:** I'm okay.

5 **MR. SHERRIFF-SCOTT:** All right.

6 All right, now, I want to switch to another  
7 subject which is a sensitive one with you and just  
8 understand that I have to talk to you about this. I don't  
9 mean to make this more difficult that it needs be must.  
10 It's the subject of your parent's knowledge of the abuse  
11 issue.

12 I'll try and keep it focused and we can  
13 march through it and please understand it's not designed to  
14 upset you.

15 If we can turn to your first statement to  
16 the police which is Exhibit 206, and I'm looking at pages  
17 51 and 52 which are written in hand in the upper-right  
18 corners.

19 If you prefer I can give you the --

20 I think we need to have this clear for the  
21 record, Mr. MacDonald, okay? So let me just walk you  
22 through it and I'll ask you some short questions at the end  
23 of it, okay?

24 **MR. MacDONALD:** Okay.

25 **MR. SHERRIFF-SCOTT:** The officers here, this

1 is your interview with the OPP. You say "Tim" in the  
2 middle of the page. You see the reference and "you  
3 indicated".

4 **MR. MacDONALD:** Correct.

5 **MR. SHERRIFF-SCOTT:** In your statement that  
6 when you got home and ran up and went right to the  
7 bathroom, is that what --

8 "Did you tell anybody about these  
9 events after this happened. There was  
10 some indication that your parents were  
11 made aware."

12 John, that's you:

13 "And I don't know how that happened, I  
14 know a letter went to the church, I got  
15 (pause)."

16 Just stopping there, at the time you were a  
17 young man, right?

18 **MR. MacDONALD:** Correct.

19 **MR. SHERRIFF-SCOTT:** And you never saw a  
20 letter.

21 **MR. MacDONALD:** No.

22 **MR. SHERRIFF-SCOTT:** You wouldn't have known  
23 not having seen it, to whom it was addressed or when it was  
24 sent?

25 **MR. MacDONALD:** Correct.

1                   **MR. SHERRIFF-SCOTT:** All right. So let's  
2                   press on here.

3                                    "Your parents must have -- it to do  
4                                   that somewhere along the line your  
5                                   parents must have been told something  
6                                   if that's the case, can you recall  
7                                   anything that you told them that would  
8                                   make them contact the church?"

9                   John:

10                                   "I almost have a feeling that something  
11                                   happened with my brother too but I'm  
12                                   not sure."

13                                   This is the first time after your first  
14                                   statement that you indicate there's a possibility that this  
15                                   reporting issue may have involved your brother Michael?

16                   **MR. MacDONALD:** Correct.

17                   **MR. SHERRIFF-SCOTT:** Okay.

18                   John:

19                                   "Mike".

20                   You name him.

21                                   "Is he older or younger?"

22                                   "He's older than I am."

23                                   "By how much, John?"

24                   John:

25                                   "He'd be about five years older than I

1 am."

2 Tim:

3 "Was he also an alter boy?"

4 Answer:

5 "I don't know."

6 "Is he still around this area?"

7 John:

8 "He's in Toronto."

9 Tim:

10 "Okay. And have you had contact with  
11 him in recent years?"

12 No response.

13 Tim:

14 "Nobody in the family?"

15 John:

16 "I haven't spoken to Mike in five  
17 years."

18 Tim:

19 "So the contact that your parents have  
20 would the church be related to what  
21 occurred to you?"

22 John:

23 "I doubt it."

24 Tim:

25 "Or your brother?"

1 "I don't know."

2 And then the next page, 53:

3 "You're sure they had some contact and  
4 nothing did you ever tell anybody? Who  
5 was the first person you told about  
6 these three events and when?"

7 John:

8 "The first person I became aware of  
9 telling?"

10 Tim:

11 "Yes."

12 John:

13 "Mr. Derrig."

14 That was your counsellor at Mount Carmel, correct?

15 **MR. MacDONALD:** Correct.

16 **MR. SHERRIFF-SCOTT:** All right.

17 So that's the first iteration after your  
18 first statement. I presume you now know that there was no  
19 letter sent. Correct?

20 **MR. MacDONALD:** Correct.

21 **MR. SHERRIFF-SCOTT:** That if there was any  
22 reporting of anything it was oral, by your mother on the  
23 phone.

24 **MR. MacDONALD:** Correct.

25 **MR. SHERRIFF-SCOTT:** All right.

1                   You remember no doubt being examined for  
2                   discovery in 1996?

3                   **MR. MacDONALD:** Yes, generally.

4                   **MR. SHERRIFF-SCOTT:** This is Bates doc  
5                   110855, Exhibit 236.

6                   I'd like to turn to page 92 of the  
7                   transcript.

8                   In particular, question starting -- line or  
9                   question 759. So if we can scroll down a wee bit.

10                  The passage I'd like to read to you, sir, is  
11                  759:

12                                 "When you got home that Sunday ..."  
13                   Now, this is referring to one of the events.  
14                                 "... what did you do then? Did you tell  
15                                 your parents?"

16                  Answer:

17                                 "No."

18                  Question:

19                                 "Did you ever tell your parents about  
20                                 any of the incidents?"

21                  Answer:

22                                 "I don't know if I mentioned anything  
23                                 or not. I may have dropped hints about  
24                                 things going on here and there, but I  
25                                 never came right out and said what had

1                                   happened."

2                                   So as we move away from your first letter  
3                                   and statement, you concede eventually, during cross-  
4                                   examinations that you don't know what happened?

5                                   **MR. MacDONALD:** Correct.

6                                   **MR. SHERRIFF-SCOTT:** Right.

7                                   Mr. MacDonald, if this upsets you at any  
8                                   time, you tell me if you need a break. Okay?

9                                   **MR. MacDONALD:** I'm good.

10                                  **MR. SHERRIFF-SCOTT:** All right.

11                                  Then the next reference I want to take you  
12                                  to is Exhibit 224, which is the preliminary inquiry. And  
13                                  that is another transcript. It is at page 58.

14                                  Here, if you have the reference, which is  
15                                  starting around line 10 to about line 20. Just scan that  
16                                  and then I'll read it out loud.

17                                  But just before you get through it, as a  
18                                  preliminary, here you're testifying at the preliminary  
19                                  inquiry, right, Mr. MacDonald?

20                                  **MR. MacDONALD:** Correct.

21                                  **MR. SHERRIFF-SCOTT:** You're testifying under  
22                                  the auspice of the Crown Attorney here. He's the one  
23                                  leading your evidence; yes?

24                                  **MR. MacDONALD:** Okay.

25                                  **MR. SHERRIFF-SCOTT:** You're testifying in



1 support of having the charges against Mr. MacDonald  
2 proceed?

3 **MR. MacDONALD:** Correct.

4 **MR. SHERRIFF-SCOTT:** All right. So question  
5 at line 10:

6 "Okay. Now, at the time do you recall  
7 relating these incidents to any adults  
8 after they happened or sometime after  
9 they happened?"

10 Answer:

11 "I mentioned earlier that I don't know.  
12 I didn't come right out and say, you  
13 know, to my parents or anybody else  
14 what had gone on. The only other  
15 person I spoke to was a counsellor of  
16 mine at an addiction research centre or  
17 an addiction centre."

18 Question:

19 "How much time after the incidents?"

20 Answer:

21 "Oh. This is years."

22 So that was your sworn evidence at the  
23 prelim.

24 **MR. MacDONALD:** Correct.

25 **MR. SHERRIFF-SCOTT:** All right. So you're

1 still basically now, you're conceding that you never told  
2 your parents; came right out and told them? Correct?

3 **MR. MacDONALD:** Probably not.

4 **MR. SHERRIFF-SCOTT:** All right. Probably  
5 not conceding?

6 I'm sorry. I misunderstood your answer.

7 **THE COMMISSIONER:** You probably didn't --  
8 your answer ---

9 **MR. MacDONALD:** I didn't come out directly  
10 and tell them.

11 **MR. SHERRIFF-SCOTT:** You may have hinted,  
12 but there was no direct discussion?

13 **MR. MacDONALD:** Correct.

14 **MR. SHERRIFF-SCOTT:** Okay.

15 All right. Now, just to finish this point  
16 as quickly as we can, you know that your mother at some  
17 point was going to be interviewed by the OPP pursuant to  
18 the investigation of Mr. MacDonald?

19 **MR. MacDONALD:** Correct.

20 **MR. SHERRIFF-SCOTT:** You didn't talk to her  
21 about your evidence before she was interviewed?

22 **MR. MacDONALD:** No.

23 **MR. SHERRIFF-SCOTT:** All right. But you now  
24 know she was and that she gave a written statement?

25 **MR. MacDONALD:** Correct.

1                   **MR. SHERRIFF-SCOTT:** Okay.

2                   Can we turn that up? That is Bates doc  
3                   number 110434 -- I don't believe it's already marked.

4                   **THE COMMISSIONER:** Exhibit No. 253,  
5                   Statement of Mrs. Agnes MacDonald, dated December 7<sup>th</sup>, 1995.

6                   **---EXHIBIT NO./PIÈCE NO P-253:**

7                   Statement of Agnes MacDonald - December 7,  
8                   1995.

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

10                  Do you have a copy of that, sir?

11                  **MR. MacDONALD:** Yes.

12                  **MR. SHERRIFF-SCOTT:** By this point in time,  
13                  have you seen it?

14                  **MR. MacDONALD:** Yes.

15                  **MR. SHERRIFF-SCOTT:** All right. So you've  
16                  read it at least in preparation for coming here?

17                  **MR. MacDONALD:** Correct.

18                  **MR. SHERRIFF-SCOTT:** Okay.

19                  We'll just read it. I'll put it to you:

20                                "I'm investigating allegations of  
21                                sexual abuse by Father Charlie and your  
22                                son, John has come forward and  
23                                indicated to us ..."

24                  This is the police officer speaking.

25                                "... that he was a victim of this abuse.

1 Has he ever spoken to you about the  
2 abuse?"

3 Answer:

4 "No, he never spoke to us at any time  
5 about this."

6 Question:

7 "Do you recall what year he became an  
8 altar boy or what age he would have  
9 been?"

10 "No. I can't remember. He may have  
11 been 11 or 12."

12 Question:

13 "Did he ever attend any retreats?"

14 Answer:

15 "Yes, he went to St. Raphael's once for  
16 a weekend with other altar boys. I  
17 think Father Charlie went and also some  
18 mothers would go and supervise."

19 Question:

20 "Did he ever attend a retreat at St.  
21 Andrew's?"

22 Answer:

23 "Not that I know of."

24 Over the next page.

25 "Would he have gone with other altar

1 boys to the retreat?"

2 Answer:

3 "No. It was with his school class.

4 Boys and girls would go."

5 Question:

6 "Did John ever attend a weekend at

7 Bishop Proulx' house in Alexandria?"

8 "I don't know if it was John or not. I

9 can't remember. I know one of my boys

10 went and I think we went to pick him

11 up."

12 "Did you ever write a letter to the

13 church because something happened?"

14 "No. I phoned Father Charlie and it

15 concerned my sons, Michael and Bobby

16 about going on a retreat with a Mr.

17 Brown, north of Ottawa. They left on a

18 Friday evening and Michael came in on

19 Sunday and he walked in the door and

20 said, 'You don't ever ask me to go and

21 do anything like that again'. I asked,

22 'What's the matter with you?' and he

23 said something like, 'The old B-A-S-T-

24 A-R-D, a priest was after me'. I

25 phoned Father Charlie and told him. He

1                   didn't say anything and he didn't do  
2                   anything and I told Father Charlie not  
3                   to ask any of my kids to do anything  
4                   anymore."

5                   Question:

6                   "Do you recall the year this happened?"

7                   Answer:

8                   "Can't remember."

9                   Question:

10                  "Did Father attend this retreat in  
11                  Ottawa?"

12                  "No. It was some older priest in  
13                  Ottawa."

14                  Okay. So that's your mother's evidence and  
15                  I think that you fairly admitted before the Crown Attorney  
16                  at the prelim and before the Criminal Injuries Compensation  
17                  Board that you've no reason to suspect she's being  
18                  untruthful? In other words, in giving her statement ---

19                  **MR. MacDONALD:** To the best of her  
20                  knowledge.

21                  **MR. SHERRIFF-SCOTT:** Yes.

22                  **MR. MacDONALD:** That's right.

23                  **MR. SHERRIFF-SCOTT:** Okay.

24                  And to the best of her knowledge,  
25                  presumably, if she was the one that interacted with the

1 church, she presumably would be a person better situated to  
2 talk about what her communications were than you would be?

3 **MR. MacDONALD:** Correct.

4 **MR. SHERRIFF-SCOTT:** Okay.

5 Just moving along. I'm almost finished  
6 here. I'll probably be finished by the break in just a few  
7 minutes.

8 All right. I just want to finish with a  
9 point, what I'll call subsequent counselling assistance.  
10 Just finishing the first counselling point, you testified  
11 that you did go for counselling on a variety of sessions  
12 after the initiative was made in September of 1995?

13 **MR. MacDONALD:** Correct.

14 **MR. SHERRIFF-SCOTT:** And that was funded by  
15 the Diocese?

16 **MR. MacDONALD:** Correct.

17 **MR. SHERRIFF-SCOTT:** All right.

18 Now, subsequently, I want to talk about,  
19 there was a gesture or discussion about further assistance  
20 much later on. Do you recall that? I can refresh your  
21 memory if you don't but if you do, that's fine.

22 **MR. MacDONALD:** Then refresh my memory.

23 **MR. SHERRIFF-SCOTT:** All right. Okay. We  
24 know you sued Charles MacDonald and the Diocese for several  
25 million dollars. Correct?

1                   **MR. MacDONALD:** Correct.

2                   **MR. SHERRIFF-SCOTT:** All right. Mr.  
3 Geoffrey was your first lawyer on the file and he was at  
4 the Cogan firm but left the firm and didn't take your case  
5 where he went, for whatever reasons, it's not a criticism,  
6 but that's what happened. Isn't it?

7                   Do you have a recollection of that?

8                   **MR. MacDONALD:** Yes. To me, he brought it  
9 with him.

10                  **MR. SHERRIFF-SCOTT:** Oh. Well, I didn't see  
11 any evidence of that.

12                  Eventually, you hired another lawyer?

13                  **MR. MacDONALD:** Correct.

14                  **MR. SHERRIFF-SCOTT:** All right. And who was  
15 that? Do you remember?

16                  **MR. MacDONALD:** Charles Bourgeois.

17                  **MR. SHERRIFF-SCOTT:** Okay. Mr. Bourgeois  
18 was who? Where was he?

19                  **MR. MacDONALD:** Newmarket.

20                  **MR. SHERRIFF-SCOTT:** All right. He was  
21 Perry Dunlop's lawyer?

22                  **MR. MacDONALD:** Yes.

23                  **MR. SHERRIFF-SCOTT:** Eventually, your case  
24 became dismissed for lack of prosecution if I can use that  
25 expression. In other words, it was ---



1                   **MR. MacDONALD:** Because I went to another  
2 lawyer. He's the one who ended up losing it.

3                   **MR. SHERRIFF-SCOTT:** Okay, you went to a  
4 third lawyer after Mr. Bourgeois?

5                   **MR. MacDONALD:** Correct.

6                   **MR. SHERRIFF-SCOTT:** That was the Robillard  
7 firm?

8                   **MR. MacDONALD:** Correct.

9                   **MR. SHERRIFF-SCOTT:** All right.  
10 Because no action had taken place, it was  
11 dismissed for delay. Does that concord with your  
12 recollection?

13                   **MR. MacDONALD:** Correct.

14                   **MR. SHERRIFF-SCOTT:** All right. You didn't  
15 do anything thereafter to bring it back?

16                   **MR. MacDONALD:** No.

17                   **MR. SHERRIFF-SCOTT:** All right. You went to  
18 the Criminal Injuries Compensation Board instead.

19                   **MR. MacDONALD:** I filed that years earlier.

20                   **MR. SHERRIFF-SCOTT:** Did you? Okay.

21                               Was that part of your thinking, that you  
22 would -- you were going there anyway, so ---

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

24                   **MR. SHERRIFF-SCOTT:** Okay. Fine.

25                               All right. So now, I just want to turn you

1 to a couple of documents to finish. In the spring of 1999,  
2 your lawyer wrote to Mr. Anniss and that is Bates doc  
3 738027.

4 **THE COMMISSIONER:** Exhibit 254.

5 **MR. SHERRIFF-SCOTT:** Yes.

6 **THE COMMISSIONER:** Letter dated April 2,  
7 1998, M. Robichaud and Peter Anniss.

8 **---EXHIBIT NO./PIÈCE NO P-254:**

9 Letter from Peter B. Anniss to Alain  
10 Robichaud - April 2, 1998.

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

12 I'm sorry. Just a moment, Commissioner.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **MR. SHERRIFF-SCOTT:** All right. So we have  
15 Mr. Anniss' letter. Have you had a chance to look at that?

16 **MR. MacDONALD:** I'm just reading it now.

17 **MR. SHERRIFF-SCOTT:** Okay, why don't you do  
18 that? Then I'll ask you about it -- just tell me when  
19 you're finished.

20 **(SHORT PAUSE/COURTE PAUSE)**

21 **MR. MacDONALD:** Okay.

22 **MR. SHERRIFF-SCOTT:** All right. Let's put  
23 ourselves in time here. At this time, your lawyer is  
24 asking for a consent to set aside a judgement dismissing  
25 your case and Mr. Anniss is reporting that through other

1 channels, you've asked for further assistance. Right?

2 MR. MacDONALD: Okay.

3 MR. SHERRIFF-SCOTT: Is that fair, sir?

4 MR. MacDONALD: That's fair. This is the  
5 first time I've seen this.

6 MR. SHERRIFF-SCOTT: I'm sorry. I didn't  
7 realize that.

8 In this time envelope, your case is  
9 dismissed, for delay. Your lawyer is asking that it be --  
10 that there be a consent to have it back on and then Mr.  
11 Anniss refers to the fact that you have requested to  
12 provide "further assistance to deal with his emotional  
13 state". Correct?

14 MR. MacDONALD: Okay.

15 MR. SHERRIFF-SCOTT: Is that right, sir?

16 MR. MacDONALD: Yes.

17 MR. SHERRIFF-SCOTT: Okay. So the response  
18 -- did you ever get this letter from your lawyer?

19 MR. MacDONALD: No.

20 MR. SHERRIFF-SCOTT: Okay. All right. So  
21 you were never aware -- but I thought, sir, that in the  
22 media publication that followed, you criticized the church,  
23 saying that the offer they gave you was subject to strings.  
24 So you must have been aware that there was a response that  
25 indicated that ---

1                   **MR. MacDONALD:** I'm telling you this is the  
2 first time that I've read this letter.

3                   **MR. SHERRIFF-SCOTT:** All right. So let me  
4 just go back to what Mr. Anniss says then. You'll see  
5 towards the bottom of the first large paragraph on the  
6 first page, he says:

7                                 "Having discussed this matter with my  
8 client, I am prepared to recommend that  
9 it provide financial assistance for  
10 counselling service to your client."

11                   Now, this is when your case has now been  
12 dismissed. Correct?

13                   **MR. MacDONALD:** I don't know when I found  
14 out that the case was dismissed. It might have been long  
15 after this. I have no idea when I finally found out that  
16 it was dismissed.

17                   **MR. SHERRIFF-SCOTT:** All right. He says:

18                                 "But only on two-fold condition.  
19 First, to be agreed by doing so  
20 constitutes no admission of liability  
21 on the part of the church or Father  
22 MacDonald."

23                   So without prejudice as you understand that.  
24 Right?

25                   **MR. MacDONALD:** Correct. Correct.

1                   **MR. SHERRIFF-SCOTT:** And that's the same  
2 footing upon which the first counselling set of services  
3 were provided to you; without prejudice?

4                   **MR. MacDONALD:** Correct.

5                   **MR. SHERRIFF-SCOTT:** All right. You had no  
6 problem with that?

7                   **MR. MacDONALD:** No.

8                   **MR. SHERRIFF-SCOTT:** Okay.

9                                 "Secondly, the physicians treating Mr.  
10 MacDonald and none of the medical  
11 documents' findings be used in his  
12 trial should it proceed that far."

13                   In other words, Mr. Anniss is saying "Well,  
14 it's fine we'll provide the assistance but we're not  
15 essentially building your trial case".

16                   **MR. MacDONALD:** Okay.

17                   **MR. SHERRIFF-SCOTT:** Okay?

18                   **MR. MacDONALD:** Okay.

19                   **MR. SHERRIFF-SCOTT:** So are you saying you  
20 never saw this and therefore never had an opportunity to  
21 take him up on this initiative?

22                   **MR. MacDONALD:** I'm telling you, this is the  
23 first time I've seen this letter.

24                   **MR. SHERRIFF-SCOTT:** Okay. That's fine. I  
25 understand that. So you never were aware of this response?

1                   **MR. MacDONALD:** No.

2                   **MR. SHERRIFF-SCOTT:** Are you sure, sir?

3                   **MR. MacDONALD:** I don't recall this letter  
4 at all and believe me, I recall a lot of letters.

5                   **MR. SHERRIFF-SCOTT:** Okay. Well, the only  
6 reason I ask you to be certain is that Mr. Lee put a  
7 newspaper article to you, in his cross-examination ---

8                   **MR. MacDONALD:** I'm aware of where you're  
9 going with that.

10                   **MR. SHERRIFF-SCOTT:** Now, I don't want to  
11 contradict you needlessly. I just want you to be -- I'm  
12 concerned that you get it right.

13                   **MR. MacDONALD:** But I don't see how your  
14 tying this to what Mr. Lee brought up about ---

15                   **MR. SHERRIFF-SCOTT:** Well, we can go to that  
16 letter and --

17                   **THE COMMISSIONER:** Let him do that.

18                   **MR. SHERRIFF-SCOTT:** We can go to the  
19 article which I think fairly suggests that you were  
20 critical of the church for tying strings to the counselling  
21 services that they offered to you at this juncture.

22                   Do you remember that?

23                   **MR. MacDONALD:** I remember that.

24                   **MR. SHERRIFF-SCOTT:** All right.

25                   But just coming back to the initiative here,

1 the first premise of providing additional services was that  
2 it would be on a without prejudice basis which you just  
3 told me you had no trouble with.

4 MR. MacDONALD: Correct, correct.

5 MR. SHERRIFF-SCOTT: Fair enough in the  
6 circumstances.

7 MR. MacDONALD: That's right.

8 MR. SHERRIFF-SCOTT: Okay.

9 And the second footing was that you not use  
10 it against them in a trial. In other words, to build your  
11 evidence against them.

12 MR. MacDONALD: Okay.

13 MR. SHERRIFF-SCOTT: Fair enough?

14 MR. MacDONALD: That's fair. That's  
15 correct.

16 MR. SHERRIFF-SCOTT: Okay.

17 MR. MacDONALD: Yeah.

18 MR. SHERRIFF-SCOTT: And so what I'm hearing  
19 is that you weren't aware of this letter and therefore you  
20 never took them up on this issue.

21 MR. MacDONALD: Of the counselling again?

22 MR. SHERRIFF-SCOTT: The further  
23 counselling, yes.

24 MR. MacDONALD: Yes.

25 MR. SHERRIFF-SCOTT: Am I right?

1                   **MR. MacDONALD:** You're right.

2                   **MR. SHERRIFF-SCOTT:** Okay.

3                   Then, I just wanted to get to the bottom of  
4 the facts. Now, one last question about the first offer of  
5 assistance.

6                   And I'll just wrap up with this,  
7 Commissioner, so we can take the break on time.

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

9                   **MR. SHERRIFF-SCOTT:** Just so you know, sir,  
10 I want to turn to -- this is Bates Doc number 110857, which  
11 is a transcript of discovery. And I don't think it's been  
12 made an exhibit yet.

13                   Do you have that?

14                   **THE COMMISSIONER:** Just a second while we  
15 get ---

16                   **MR. SHERRIFF-SCOTT:** Yes.

17                   **THE COMMISSIONER:** Thank you.

18                   **(SHORT PAUSE/COURTE PAUSE)**

19                   **THE COMMISSIONER:** Exhibit No. 255 -- no.  
20 This is the transcript number? How thick is it? How  
21 voluminous is it?

22                   **MR. SHERRIFF-SCOTT:** It's quite thick but  
23 I'm only going to talk about two pages, which are 226 ---

24                   **THE COMMISSIONER:** I know, just it will help  
25 her find the -- unless you only prepared the two pages



1 which I doubt.

2 MR. SHERRIFF-SCOTT: I doubt it. I gave the  
3 -- I gave the document number. I don't think I gave the  
4 page number.

5 (SHORT PAUSE/COURTE PAUSE)

6 MR. SHERRIFF-SCOTT: Want me to just read it  
7 to the witness?

8 THE COMMISSIONER: Sure.

9 MR. SHERRIFF-SCOTT: And see if he adopts  
10 it?

11 This is an exchange between Mr. Anniss and  
12 your lawyer at your examination for discovery pertaining to  
13 the counselling services that you had taken advantage of,  
14 and it says at page 226 ---

15 THE COMMISSIONER: Madam Clerk, maybe you  
16 can just ---

17 THE REGISTRAR: Page 226?

18 MR. SHERRIFF-SCOTT: Yes, Question 1752,  
19 which is the bottom of the page 226.

20 (SHORT PAUSE/COURTE PAUSE)

21 MR. SHERRIFF-SCOTT: And down to the bottom  
22 of 1752 and then I'll just briefly go up to the next page.

23 And it says, and I just want to make sure  
24 that we agree about this:

25 "Okay. During the off-record

1 discussion, we went back and reviewed  
2 the requirement of the -- or the  
3 undertaking given by Mr. Geoffrey to  
4 the clinical notes, et cetera, of Ms.  
5 Vonder Haar be produced."

6 That was one of your counsellors, was it?

7 **MR. MacDONALD:** Yes.

8 **MR. SHERRIFF-SCOTT:** Okay.

9 "I think we agreed that in the  
10 circumstances where the Diocese was  
11 paying for this and was trying to help  
12 Mr. MacDonald, et cetera and it was  
13 done on a without prejudice basis, I  
14 think (inaudible) would be really  
15 involved in the litigation, in the  
16 litigation, i.e. the counselling, that  
17 we would not request those clinical  
18 notes unless it was the plaintiff's  
19 intention to rely on the evidence from  
20 this doctor in which case we would want  
21 the full medical chart."

22 So the Diocese didn't ask you for the  
23 records emanating out of your first counselling sessions or  
24 require you to produce them in the litigation unless you  
25 were going to have this doctor called as a witness. Is that

1 right?

2 **MR. MacDONALD:** If that's what is says, yes.

3 **MR. SHERRIFF-SCOTT:** Okay.

4 **MR. MacDONALD:** Okay.

5 **MR. SHERRIFF-SCOTT:** All right.

6 Those are my questions. Thank you, sir.

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

8 We'll take the afternoon break.

9 Mr. Dumais, could you please canvass the  
10 other counsel to see how much time we are going to have for  
11 today and tomorrow?

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

13 **THE COMMISSIONER:** Thank you.

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

16 The hearing will resume at 3:35 p.m.

17 --- Upon recessing at 3:17 p.m./

18 L'audience est suspendue à 15h17

19 --- Upon resuming at 3:35 p.m./

20 L'audience est reprise à 15h35

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

23 Veuillez vous asseoir.

24 **THE COMMISSIONER:** Thank you.

25 Good afternoon, Mr. Callaghan.

1                   **MR. CALLAGHAN:** Good day, Mr. Commissioner.

2                   **THE COMMISSIONER:** How are you doing today?

3                   **MR. CALLAGHAN:** I'm well, thank you.

4                   **THE COMMISSIONER:** Good.

5                   **JOHN MacDONALD, Resumed/Sous le même serment:**

6                   **--- CROSS-EXAMINATION BY/ CONTRE-INTERROGATOIRE PAR MR.**

7                   **CALLAGHAN:**

8                   **MR. CALLAGHAN:** Mr. MacDonald, as you are  
9 probably aware, my name is John Callaghan, and I act for  
10 the Cornwall Police Services.

11                   I'd like to just touch base quickly with  
12 respect to your notes, and I raised this with Commission  
13 counsel but that's Exhibit 204. Your notes go from January  
14 8, 1996 over to the last page of March -- I believe it's 1<sup>st</sup>  
15 '96.

16                   Do you see that?

17                   **MR. MacDONALD:** Yes.

18                   **MR. CALLAGHAN:** And do you have a copy of  
19 these notes other than what's been given to you?

20                   **MR. MacDONALD:** I knew you were going to  
21 ask?

22                   **MR. CALLAGHAN:** I know. I knew you knew.

23                   **MR. MacDONALD:** And I'm a great keeper  
24 except for these notes.

25                   **MR. CALLAGHAN:** Okay, because when one were

1 to read the -- and I won't take you there, but the cross-  
2 examination by Mr. Neville at the prelim, it would appear  
3 that there was another page that details your events from  
4 January 10<sup>th</sup> '96 through to the end of February.

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

6 **MR. CALLAGHAN:** That's possible, okay.

7 So that if we -- unless I have to, I won't  
8 take you there, but if we were to read in the transcript,  
9 as I am going to suggest, and I won't suggest we have to  
10 look at it -- the reference denotes -- you wouldn't deny  
11 that there is probably another page that somebody has ---

12 **MR. MacDONALD:** Yes, it's possible.

13 **MR. CALLAGHAN:** Okay, because that's a long  
14 gap. There were things happening?

15 **MR. MacDONALD:** Yes.

16 **MR. CALLAGHAN:** And is there any reason why  
17 you would have stopped taking notes in March of '96?

18 **MR. MacDONALD:** Things became a way of life,  
19 if you want to put it that way.

20 **MR. CALLAGHAN:** It's like a diet. You can't  
21 stay on it the whole time?

22 **MR. MacDONALD:** That's it.

23 **MR. CALLAGHAN:** That's right, all right.

24 **THE COMMISSIONER:** Says who?

25 I'm not referencing anybody in the room, Mr.

1 Commissioner.

2 (LAUGHTER/RIRES)

3 MR. CALLAGHAN: As you know, I want to start  
4 by saying that I gather that your involvement with the  
5 Cornwall Police basically starts with a phone call,  
6 ironically from the Cornwall Police, Constable Bough calls  
7 you. Correct?

8 MR. MacDONALD: Correct.

9 MR. CALLAGHAN: And as I understand it, and  
10 I just want to make sure I've got the evidence, is that he  
11 and you have a chat and he is very sympathetic towards your  
12 position?

13 MR. MacDONALD: Absolutely.

14 MR. CALLAGHAN: And he doesn't want you to  
15 have to rush it?

16 MR. MacDONALD: Correct.

17 MR. CALLAGHAN: You had indicated, as  
18 someone pointed out earlier, that you might want to go  
19 speak to a lawyer; at that time you thought it was Sean  
20 Adams. Right?

21 MR. MacDONALD: I did speak with Sean  
22 Addams, correct.

23 MR. CALLAGHAN: But he said, "Take your  
24 time."

25 MR. MacDONALD: Correct.

1                   **MR. CALLAGHAN:** "Come in when you're ready."

2                   **MR. MacDONALD:** Correct.

3                   **MR. CALLAGHAN:** And as has been indicated --  
4 oh, and I take it you're also aware that from the Cornwall  
5 Police Services' perspective that it was Constable Bough  
6 who was to be your contact?

7                   **MR. MacDONALD:** Correct.

8                   **MR. CALLAGHAN:** And prior to that you had  
9 met with and discussed matters with David Silmser.  
10 Correct?

11                   **MR. MacDONALD:** Prior to Dave Bough calling?

12                   **MR. CALLAGHAN:** Yes.

13                   **MR. MacDONALD:** Correct.

14                   **MR. CALLAGHAN:** And I think one of the  
15 points that has been made, of course, is that I gather,  
16 somewhat unbeknownst to you, that David Silmser is calling  
17 Constable Bough.

18                   **MR. MacDONALD:** Once again, so I heard.

19                   **MR. CALLAGHAN:** Yes. And I take it, you had  
20 communicated that you had been in touch with Constable  
21 Bough and that's how he began to call Constable Bough?

22                   **MR. MacDONALD:** Probably.

23                   **MR. CALLAGHAN:** All right.

24                   One of the things, if you go to Exhibit 234  
25 -- and sir, while they get that up, you're aware obviously,

1 that there was an ongoing investigation into David  
2 Silmser's allegations? There was an ongoing investigation  
3 by the OPP into his allegations against Father Charlie.

4 **MR. MacDONALD:** I wasn't aware of that.

5 **MR. CALLAGHAN:** You weren't aware that there  
6 was ---

7 **MR. MacDONALD:** At that time?

8 **MR. CALLAGHAN:** You weren't aware?

9 **MR. MacDONALD:** No.

10 **MR. CALLAGHAN:** And then, if you go to, if  
11 we could, Exhibit 234?

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

13 **MR. MacDONALD:** Can we go back to your last  
14 question for a minute?

15 **MR. CALLAGHAN:** Sure.

16 **MR. MacDONALD:** So you told me that there  
17 was an ongoing -- you say that there was an ongoing  
18 investigation by the OPP into David Silmser's allegations?

19 **MR. CALLAGHAN:** Right. Are you saying that  
20 you weren't aware that there was any investigation ongoing?

21 **THE COMMISSIONER:** Do you know what he  
22 means, that a criminal investigation not against Mr.  
23 Silmser ---

24 **MR. MacDONALD:** I understand but I also  
25 understood that that investigation wrapped up in December



1 of 1994.

2 **MR. CALLAGHAN:** So you -- okay. So that was  
3 your understanding at that time?

4 **MR. MacDONALD:** That's why I kept asking  
5 about ongoing investigations.

6 **MR. CALLAGHAN:** I see, okay.

7 And if we could go to the third page and  
8 this is from August 22<sup>nd</sup>. These are the notes that go over.  
9 And if I go up to the bottom, from the bottom up you'll see  
10 on the left-hand side this is a call from David Silmser to  
11 Constable Bough. And it says:

12 "Dave advises that John's parents wrote  
13 a letter to the church 25 years ago."

14 Is that something you would have talked to  
15 Silmser about?

16 **MR. MacDONALD:** I obviously would have.

17 **MR. CALLAGHAN:** All right.

18 So that would have been during your  
19 discussions on the 18<sup>th</sup> of August when you met?

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

21 **MR. CALLAGHAN:** Do you recall how much more  
22 you discussed or not at this time?

23 **MR. MacDONALD:** There -- no.

24 **MR. CALLAGHAN:** And I take it that on the  
25 23<sup>rd</sup> of August, if you go back one page in those notes, if

1       you go down you'll see that -- first, you'll see that -- at  
2       the top I should say -- that 10:21 means call to John  
3       MacDonald, that Constable Bough called you and if you drop  
4       back down, it says at the bottom 10:21 is call from John  
5       MacDonald.

6                   **MR. MacDONALD:** All right.

7                   **MR. CALLAGHAN:** And you have seen this note.  
8       We have gone over this a couple of times. If I could just  
9       get Madam Clerk to lift the note a little?

10                   All right.

11                   And you'll see that at that time you were  
12       advised that David Silmsler was calling. Right?

13                   **MR. MacDONALD:** Correct.

14                   **MR. CALLAGHAN:** And at the end it says:

15                   "He knows that Dave is calling and he  
16                   wants to distance himself from Dave."

17                   Do you see that?

18                   **MR. MacDONALD:** Yes.

19                   **MR. CALLAGHAN:** All right.

20                   So you had a discussion about contact you  
21       were having with Dave Silmsler at the time. Correct?

22                   **MR. MacDONALD:** Obviously.

23                   **MR. CALLAGHAN:** And was there some interest  
24       by Dave Silmsler to get these investigations going again?

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

1                   **MR. CALLAGHAN:** You can't recall having any  
2                   discussion in that regard with him?

3                   **MR. MacDONALD:** No.

4                   **MR. CALLAGHAN:** All right.

5                   At that time in respect to Dave Silmser was  
6                   it just about the lawsuit with Mr. Geoffrey -- not with  
7                   Mister -- assisted by Mr. Geoffrey? Was that the only ---

8                   **MR. MacDONALD:** I can't really recall what  
9                   we talked about that day.

10                  **MR. CALLAGHAN:** All right.

11                  But you knew that there was going to be a  
12                  meeting with Mr. Geoffrey about starting lawsuits?

13                  **MR. MacDONALD:** It was mentioned at  
14                  sometime, yes.

15                  **MR. CALLAGHAN:** And I take it at this stage  
16                  you are aware that Constable Bough was going to go on  
17                  holiday and wouldn't be back till September 11<sup>th</sup>. Were you  
18                  aware of that?

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

20                  **MR. CALLAGHAN:** Well, if I can -- Exhibit  
21                  249. I think it's 249, if I have got the right number,  
22                  which was the letter from -- the one that would have been  
23                  handed to you, Mr. MacDonald, the letter from Walter  
24                  MacLean. Do you have that?

25                  **MR. MacDONALD:** Okay.

1                   **MR. CALLAGHAN:** All right.

2                   It says, and I just -- just to get the  
3 timing right, in the second paragraph:

4                   "I understand that John has spoken with  
5                   Constable David Bough of the Cornwall  
6                   Police Services but that Constable  
7                   Bough will be away until on or about  
8                   the 11<sup>th</sup> of September '95."

9                   Do you see that?

10                  **MR. MacDONALD:** Okay.

11                  **MR. CALLAGHAN:** All right.

12                  And that's dated soon after, but you're  
13 aware, I take it, or that refreshes your memory that  
14 Constable Bough was away?

15                  **MR. MacDONALD:** Okay.

16                  **MR. CALLAGHAN:** And that your intent was for  
17 there to be an investigation into your allegations which  
18 you were getting up to steam, if I can put it that way, to  
19 relay to Constable Bough. Right?

20                  **MR. MacDONALD:** Correct.

21                  **MR. CALLAGHAN:** And then on September 11,  
22 Constable Bough returns and calls you on that very same day  
23 -- and if we could go back to Exhibit 234, Madam Clerk?

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

25                               **(SHORT PAUSE/COURTE PAUSE)**

1                   **MR. CALLAGHAN:** And at that time the note  
2                   says -- if I could go down to September 1<sup>st</sup>, on that page,  
3                   Madam Clerk.

4                   It says:

5                   "Telephone John and let him know that  
6                   we are requesting the OPP who handled  
7                   this thing, this matter due to the fact  
8                   that half of the allegations, alleged  
9                   sexual assaults of these happened in  
10                  the OPP jurisdiction and secondly that  
11                  Inspector Tim Smith has done extensive  
12                  work on the suspect's case; he's  
13                  familiar with him and the other  
14                  complaints and this would be more  
15                  logical."

16                  And he goes on. So you were told -- oh and  
17                  it goes on at the bottom, says; "He accepts this decision."

18                  So you were told by Constable Bough that on  
19                  September 11<sup>th</sup>, that the OPP would likely be handling your  
20                  case and you had no problem with that; you just wanted  
21                  someone to do it?

22                  **MR. MacDONALD:** Correct.

23                  **MR. CALLAGHAN:** And I take it intervening in  
24                  this was the visit or the visit you had from Constable  
25                  King, Emma?

1                   **MR. MacDONALD:** I don't think I ever had a  
2 meeting with ---

3                   **MR. CALLAGHAN:** No, no visit, the discussion  
4 you had with her I should say, telephone discussion.

5                   **MR. MacDONALD:** Telephone discussion?

6                   **MR. CALLAGHAN:** Right. And she -- and I'm  
7 not going to go over the details. Mr. Sherriff-Scott just  
8 relayed all the things that might not have been clear to  
9 you. But she asked you not to call Father Maloney, right?

10                  **MR. MacDONALD:** And I accepted that.

11                  **MR. CALLAGHAN:** Right.

12                  **MR. MacDONALD:** Yes.

13                  **MR. CALLAGHAN:** And you had no problem with  
14 that?

15                  **MR. MacDONALD:** No.

16                  **MR. CALLAGHAN:** Whereas your notes indicate  
17 Mr. Silmsen had a problem, okay.

18                               That's fair though, just to get an answer.

19                  **MR. MacDONALD:** Sorry, that's fair.

20                  **MR. CALLAGHAN:** Just so I'm clear, Mr. Lee  
21 asked you questions and no one told you to speak -- not to  
22 speak to Mr. Silmsen and I'm going to suggest that prior to  
23 -- or at least your last contact prior to September 11<sup>th</sup>,  
24 '95 by Mr. Bough you had indicated that you were going to  
25 distance yourself from Mr. Silmsen, correct?

1                   **MR. MacDONALD:** What text was I looking for  
2 there? Again, I put it that Dave is Dave and John is John  
3 and we've all seen some of Dave's reactions to ---

4                   **MR. CALLAGHAN:** But you know, you ---

5                   **MR. MacDONALD:** Is that what the distance  
6 meant or did it mean, you know, I'm not Dave.

7                   **MR. CALLAGHAN:** Okay, well it seems to be  
8 something you're relaying to him. I gather you had a  
9 discussion about it and you said I'm going to distance  
10 myself from Mr. Silmser, did you?

11                   **MR. MacDONALD:** I ---

12                   **MR. CALLAGHAN:** I'm relating because of the  
13 way Mr. Lee put it, he didn't go on about the rest of this  
14 note which clearly indicates there had obviously been a  
15 discussion between you and Constable Bough about Mr.  
16 Silmser and it concluded with you saying that you were  
17 going to distance himself and I hear what you're saying, I  
18 may not have been very clear.

19                   **MR. MacDONALD:** Correct, yes.

20                   **MR. CALLAGHAN:** But it could have been --  
21 the impression would have been given, I'm going to suggest,  
22 that you weren't going to -- you're not going to fall into  
23 David Silmser's camp, you were going -- John was going to  
24 continue to be John and you weren't going to be influenced  
25 by David Silmser?

1                   **MR. MacDONALD:** Correct.

2                   **MR. CALLAGHAN:** All right.

3                   And I take it he also mentioned, Mr. Lee  
4                   also talked about Carson Chisholm and I'm going to suggest  
5                   to you between August 23<sup>rd</sup> and September 11<sup>th</sup>, '95 when you  
6                   were told that the OPP would likely handle the matter you  
7                   had only met -- you hadn't even met Mr. Carson Chisholm?

8                   **MR. MacDONALD:** I don't believe so.

9                   **MR. CALLAGHAN:** All right. And so Carson  
10                  Chisholm hadn't actually been a person that you had  
11                  indicated to Constable Bough you were talking with because  
12                  you didn't know who he was until, I believe you said you  
13                  got a call from him on September 2<sup>nd</sup>, correct?

14                  **MR. MacDONALD:** On September 2<sup>nd</sup>?

15                  **MR. CALLAGHAN:** Yes.

16                  **MR. MacDONALD:** Is that in my notes  
17                  somewhere?

18                  **MR. CALLAGHAN:** Yes. I think you testified  
19                  to that last time.

20                  **MR. MacDONALD:** Okay.

21                  **MR. CALLAGHAN:** My only point is, there  
22                  wasn't any discussion because he wasn't a person who you  
23                  had any knowledge of?

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

25                  **MR. CALLAGHAN:** All right.



1                   In respect of Mr. Carson Chisholm, I take it  
2                   that -- well perhaps you could relay to me, how is it that  
3                   you decided to do a witness statement that you did on  
4                   September 12<sup>th</sup>, how did that come about?

5                   **MR. MacDONALD:** I'm sure from the meeting  
6                   with my lawyer on September 11<sup>th</sup>.

7                   **MR. CALLAGHAN:** Right, so Constable Bough  
8                   didn't ask for it?

9                   **MR. MacDONALD:** No.

10                  **MR. CALLAGHAN:** And whose idea was it to go  
11                  to the Cornwall Police?

12                  **MR. MacDONALD:** Probably Carson Chisholm's.

13                  **MR. CALLAGHAN:** Ah, and do you know why  
14                  Carson Chisholm would want that to happen?

15                  **MR. MacDONALD:** No.

16                  **MR. CALLAGHAN:** But you had already been  
17                  told on September 11<sup>th</sup>, '95 that the OPP was likely going to  
18                  take the case?

19                  **MR. MacDONALD:** Can we go to my notes now?

20                  **MR. CALLAGHAN:** Sure.

21                                 We'll see if on Exhibit 204 at September 11<sup>th</sup>  
22                                 your note says -- it's the second page of Exhibit 204, at  
23                                 the bottom.

24                                 It says:

25   "Dave Bough called, said 'OPP Kingston

1                                   will handle any complaint, they are  
2                                   very familiar with Charlie MacDonald.'"

3                                   So your note is actually that the OPP were  
4 going to handle it?

5                                   **MR. MacDONALD:** Correct.

6                                   **MR. CALLAGHAN:** All right.

7                                   And then you have a few notes, that's the  
8 night, I believe it was the evening you meet Bryce Geoffrey  
9 and Dave Silmsner, correct?

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

11                                  **MR. CALLAGHAN:** All right. Well, this next  
12 note it says;

13   "Met with Bryce and Dave, moving ahead  
14 with civil..."

15   Which is circled.

16   "...and criminal."

17   Do you see that?

18                                   **MR. MacDONALD:** Yes.

19                                   **MR. CALLAGHAN:** All right.

20                                   And -- so that was a day meeting, I guess,  
21 not that it matters but it wasn't an evening?

22                                   **MR. MacDONALD:** I think so, afternoon or  
23 something.

24                                   **MR. CALLAGHAN:** So your recollection is, is  
25 that Mr. Geoffrey suggested you write down your

1 recollection of events?

2 MR. MacDONALD: Correct.

3 MR. CALLAGHAN: And your recollection is Mr.  
4 Carson Chisholm was saying -- handed it in to the Cornwall  
5 Police?

6 MR. MacDONALD: Correct.

7 MR. CALLAGHAN: And prior to this time you'd  
8 never met Carson Chisholm?

9 MR. MacDONALD: In person, no.

10 MR. CALLAGHAN: No, you talked to him once  
11 on September 2<sup>nd</sup>, I think you said.

12 MR. MacDONALD: Okay. It's just I see on  
13 Tuesday September 12<sup>th</sup>, I received a call from Dave Bough,  
14 now would that be logged anywhere in Dave Bough's notes?

15 MR. CALLAGHAN: It is, it doesn't -- I think  
16 you'll see at the -- back to Exhibit 234, saying that you  
17 had a telephone call.

18 THE COMMISSIONER: September 11<sup>th</sup>?

19 MR. CALLAGHAN: September 12<sup>th</sup>.

20 THE COMMISSIONER: Sorry.

21 MR. CALLAGHAN: Top of the next page.

22 If you might go over one more, Madam Clerk  
23 or maybe two more; one more. Okay.

24 If you go to the very top you'll see there  
25 is -- it says:

1                   "Telephone call from John MacDonald at  
2                   9:30 after receiving message from him  
3                   at 8:28."

4                   It doesn't relay the fact -- then he has a  
5                   conversation then with David Silmser. But he -- all right  
6                   and your notes say -- that's where you say and I was going  
7                   to ask you that. You had said in your note of that date:

8                   "Dave Bough called, said lay charges  
9                   next week, twice."

10                  I take it that's you telling Dave Bough that  
11                  you want charges laid, is it?

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

13                  **MR. CALLAGHAN:** Okay.

14                  **MR. MacDONALD:** I was going to ask you the  
15                  question.

16                  **MR. CALLAGHAN:** Well it's not customary for  
17                  that to happen but if you might.

18                  But I guess the -- well Dave Bough didn't  
19                  know your allegations at this stage because you hadn't told  
20                  him.

21                  **MR. MacDONALD:** No.

22                  **MR. CALLAGHAN:** Right, all right.

23                  But you don't recall Dave Bough asking you  
24                  to prepare a statement, you recall Bryce Geoffrey asking  
25                  you?

1                   **MR. MacDONALD:** All he kept saying was  
2                   "whenever you're ready".

3                   **MR. CALLAGHAN:** Right, okay.

4                   But by this time you're aware that the OPP  
5                   were going to handle the investigation, that's what your  
6                   note says?

7                   **MR. MacDONALD:** Yes.

8                   **MR. CALLAGHAN:** And I take it when Carson  
9                   Chisholm shows up at your house, as you say, he -- I put it  
10                  in my own words, but hovers around you while you finish off  
11                  your statement and he starts to read a few pages, correct?

12                  **MR. MacDONALD:** Correct.

13                  **MR. CALLAGHAN:** Right. And on the way out  
14                  he manages to copy the statement. Correct?

15                  **MR. MacDONALD:** Correct.

16                  **MR. CALLAGHAN:** And you show up at the  
17                  police station and I take it David Bough wasn't there  
18                  because he wasn't expecting you.

19                  **MR. MacDONALD:** I can't really recall that.

20                  **MR. CALLAGHAN:** So you can't recall the  
21                  ruckus that occurred?

22                  **MR. MacDONALD:** No.

23                  **MR. CALLAGHAN:** All right.

24                  I take it you subsequently become upset with  
25                  Carson Chisholm because it's your understanding that he

1 gave the statement to Charlie Greenwell, a reporter.

2 MR. MacDONALD: I found out at some point,  
3 yes.

4 MR. CALLAGHAN: All right. He didn't do  
5 that with your agreement, he did it on his own?

6 MR. MacDONALD: Correct.

7 MR. CALLAGHAN: All right.

8 And he did it, I'm going to suggest, to  
9 fulfill an agenda that wasn't your agenda but was his own,  
10 correct?

11 MR. MacDONALD: I don't know.

12 MR. CALLAGHAN: That was your feeling  
13 though, at times?

14 MR. MacDONALD: I can't recall. I just want  
15 a chance to say though and I was going to ask my lawyer to  
16 bring it up towards the end. Mr. Manson asked me about  
17 this and I want a chance to straighten something out.

18 I had said that I was easily led at that  
19 point but it was a necessary step to go to the police. You  
20 know, I may have been dragged but not dragged reluctantly.

21 MR. CALLAGHAN: Right. No, no and as you  
22 and Constable Bough talked about, you had to come to it,  
23 you couldn't ---

24 MR. MacDONALD: That's correct.

25 MR. CALLAGHAN: Right.

1                   And I suppose in some respects you got  
2                   dragged to the police station that day.

3                   **MR. MacDONALD:** Again, not reluctantly.

4                   **MR. CALLAGHAN:** Not reluctantly, but you got  
5                   dragged there in a situation where the person you were  
6                   dealing with wasn't there, Constable Bough. You don't  
7                   recall that?

8                   **MR. MacDONALD:** I don't recall.

9                   **MR. CALLAGHAN:** You don't recall being told,  
10                  you know, Constable Bough's investigation, we're not going  
11                  to take your statement, let's wait for Constable Bough. Do  
12                  you remember that?

13                  **MR. MacDONALD:** Really, I don't recall that.

14                  **MR. CALLAGHAN:** And in any event, you  
15                  eventually gave your statement to the OPP on September 28<sup>th</sup>,  
16                  do you recall that?

17                  **MR. MacDONALD:** Correct.

18                  **MR. CALLAGHAN:** And do you recall saying  
19                  that on September 28<sup>th</sup>, when you talked to the OPP that you  
20                  didn't trust Carson Chisholm anymore; you didn't want to  
21                  deal with him, essentially?

22                  **MR. MacDONALD:** No.

23                  **MR. CALLAGHAN:** No? If you go to Exhibit  
24                  206 and I'm at -- it's page 56 of the document, although  
25                  I'm not sure you're going to find it. I'm afraid my Bates

1 stamp number is cut off.

2 It's the 56<sup>th</sup> page in, I don't know if, Madam  
3 Reporter, your machine can ---

4 **THE COMMISSIONER:** Do you want the doc  
5 number. She's there.

6 **THE REGISTRAR:** Where does it start?

7 **MR. CALLAGHAN:** It starts at the top; "Tim,  
8 okay, did he..."

9 Okay, if you go down to the bottom of that  
10 it says:

11 "Now you talk about Chisholm, who is  
12 Mr. Chisholm?

13 John:

14 "Okay this guy called me; he's been  
15 calling Dave offering support what he  
16 actually is and that should be Perry  
17 Dunlop's brother-in-law."

18 Tim:

19 "The police officer from Cornwall."

20 John:

21 "Yeah, and he was saying, I just want  
22 to help, just want to help, I'll get  
23 you where you have to go and I want to  
24 be there for support for you and the  
25 morning that I sat down and wrote this



1 statement he wanted to bring me to the  
2 police station with the statement. And  
3 as I'm writing it he's picking up the  
4 pages and reading the pages. Yeah, I  
5 was just finishing up, I was just  
6 getting to the end of the statement and  
7 this is when he picked up the pages and  
8 started reading the pages and I'm not  
9 sure but I think he photocopied and  
10 kept the copy. He went into an office  
11 of his and he photocopied it."

12 And you now know that he did take a copy,  
13 right?

14 **MR. MacDONALD:** Correct.

15 **MR. CALLAGHAN:** Tim:

16 "Where does he work?"

17 "He wasn't working at the time; it was  
18 a real estate office on 1A Street."

19 Tim:

20 "Why would you let him see the  
21 statement, I'm curious?"

22 John:

23 "I didn't intend for him to see the  
24 statements, he picked up the pages and  
25 started reading the pages."

1 Tim:  
2 "Okay, so it's apparent that he has  
3 gained your trust in this matter to let  
4 somebody read those?"

5 John:  
6 "No."  
7 "Could you explain that then when there  
8 was only four people?"

9 John:  
10 "I may have trusted him before, I don't  
11 trust him now and what he's done with  
12 it anyway."

13 Tim:  
14 "Can you tell me -- well let's expand  
15 on that a bit. Unfortunately what's  
16 happened what I understand is that I'll  
17 investigate this and Michael and I will  
18 investigate but we will not be part --  
19 we'll play no part to assert anybody  
20 else's needs other than your own and I  
21 think that's the only way we can get  
22 about it and I'm kind of interested in  
23 how this transpired."

24 John:  
25 "Like I said, he picked up the pages

1 and he picked me up at 1 o'clock or  
2 something that afternoon. He came into  
3 the house, I was downstairs finishing  
4 up the last page and I had it sitting -  
5 - I don't know if you've seen my --  
6 I've got a workbench downstairs and I  
7 was working on -- pages were folded  
8 over and I was finished and he picked  
9 the pages as he came and I didn't stop  
10 him from reading the pages. No, that's  
11 so bad. He gained my trust in a  
12 roundabout way, I suppose. He did  
13 because what he's done with it, with  
14 the press and everything, he's lost  
15 trust as far as I go."

16 Tim:

17 "So in effect, what you're telling me  
18 is you're telling us that you don't  
19 agree with what he's done and that it  
20 was not your intention?"

21 Answer:

22 "Not at all."

23 So I take it by that time, the 28<sup>th</sup> of  
24 September, you'd had enough of Carson Chisholm? Is that  
25 true? I mean, he'd taken your statement; he'd given it to

1 the press.

2 MR. MacDONALD: As far as that goes.

3 MR. CALLAGHAN: As far as that goes. Well,  
4 I'm curious because, you know, the police there were  
5 telling you that they didn't want to get involved in any of  
6 this -- these, shall we call them other actors, such as  
7 Carson Chisholm. You understood that that's what they were  
8 conveying to you?

9 MR. MacDONALD: Yes.

10 MR. CALLAGHAN: All right. Just for  
11 completeness, were you aware that somebody after you  
12 attended the Cornwall Police on the 12<sup>th</sup> of September,  
13 called Charlie Greenwell about that?

14 MR. MacDONALD: Charlie Greenwell called me  
15 at some point.

16 MR. CALLAGHAN: How did he find out about  
17 it?

18 MR. MacDONALD: Well, that's what I say. He  
19 didn't get my name out of a hat.

20 MR. CALLAGHAN: But you don't know how -- do  
21 you know how he got your name?

22 MR. MacDONALD: No.

23 MR. CALLAGHAN: Were you aware that he was  
24 made aware of your attendance at the Cornwall Police on the  
25 12<sup>th</sup> of September?

1                   **MR. MacDONALD:** I can't recall the  
2 conversation.

3                   **MR. CALLAGHAN:** All right.

4                   I take it you understood then, that there  
5 was another group having a different agenda than yours?  
6 They were putting things out to the press without asking  
7 you, for example.

8                   **MR. MacDONALD:** Correct.

9                   **MR. CALLAGHAN:** All right. I take it, I  
10 think you've already testified, that you saw Carson  
11 Chisholm and Perry Dunlop; they were brothers-in-law  
12 working together on this. Correct?

13                   Do I have that right?

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

15                   **MR. CALLAGHAN:** Well, did you understand  
16 that -- you understood they were brothers-in-law?

17                   **MR. MacDONALD:** Correct.

18                   **MR. CALLAGHAN:** Did you understand they were  
19 working together in whatever endeavour it is that Mr.  
20 Chisholm was doing?

21                   **MR. MacDONALD:** What endeavour is that;  
22 getting my statement out to Charlie Greenwell?

23                   **MR. CALLAGHAN:** Yes. And working together.

24                   **MR. MacDONALD:** Did I know that they were  
25 working together?

1                   **MR. CALLAGHAN:** Yes.

2                   **MR. MacDONALD:** No, not necessarily.

3                   **MR. CALLAGHAN:** Well, didn't -- on October  
4 11<sup>th</sup>, you say that, I think it was Helen Dunlop dropped off  
5 some press clippings. Or was that Perry Dunlop that  
6 dropped off the press clippings?

7                   **MR. MacDONALD:** When did I meet Perry  
8 Dunlop? Is that in my notes anywhere? Is it not that day  
9 that I met him?

10                   **MR. CALLAGHAN:** Well, you have on October  
11 10<sup>th</sup>:

12                                   "Calls Perry Dunlop to get phone number  
13                                   for Bob Roth."

14                   Bob Roth was a reporter. Right.

15                   **MR. MacDONALD:** Correct.

16                   **MR. CALLAGHAN:** All right. Why did you want  
17 Bob Roth's number?

18                   **MR. MacDONALD:** Because I liked what he was  
19 writing.

20                   **MR. CALLAGHAN:** So did you want to tell your  
21 story to the press?

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

23                   **MR. CALLAGHAN:** All right.

24                                   By the way, on these notes -- these notes  
25 were made contemporaneous, were they? I mean, they were

1 made at the time or were they made up afterwards?

2 MR. MacDONALD: They were made at the time.

3 MR. CALLAGHAN: How is it that October 5<sup>th</sup>  
4 follows October 10<sup>th</sup>, rather than precedes it?

5 MR. MacDONALD: That's a good question.

6 MR. CALLAGHAN: Okay. So you don't -- so  
7 some of the notes might have been done afterwards, as you  
8 thought about them; soon after maybe?

9 MR. MacDONALD: I can't recall that entry.

10 MR. CALLAGHAN: It said:

11 "Perry said, 'Come by and pick up  
12 scrapbooks on articles pertaining to  
13 this case'."

14 Do you see that?

15 MR. MacDONALD: Yes.

16 MR. CALLAGHAN: I take it, at this time, you  
17 were made aware by Carson Chisholm and perhaps Perry  
18 Dunlop, that they wanted to have a rally regarding the  
19 sentence of Malcolm MacDonald?

20 MR. MacDONALD: I'm not sure.

21 MR. CALLAGHAN: Well, do you recall being  
22 involved in an organizing group?

23 MR. MacDONALD: I think so.

24 MR. CALLAGHAN: All right. Well, can we  
25 say, take that as yes, that you got -- and I'm suggesting

1           that they brought you into it; that they're bringing you  
2           into this issue regarding Malcolm MacDonald.

3                       **MR. MacDONALD:** I can think for myself.  
4           When you say that they "brought into".

5                       **THE COMMISSIONER:** I think what he meant is,  
6           you're not the one who started this rally.

7                       **MR. MacDONALD:** No.

8                       **THE COMMISSIONER:** They're the ones -- well,  
9           I don't know who would but the rally was already thought of  
10          and they asked you to join in. Is that ---

11                      **MR. MacDONALD:** Probably.

12                      **THE COMMISSIONER:** As opposed to you  
13          organizing it?

14                      **MR. MacDONALD:** Correct.

15                      **THE COMMISSIONER:** Right.

16                      **MR. CALLAGHAN:** Well, let me just -- to  
17          refresh your memory, if we can go to exhibit -- I'm not  
18          sure it's been made an exhibit. This is the examination  
19          for discovery. It's document 738023. I don't have it  
20          marked as an exhibit number. It might. The first volume  
21          appears to be Exhibit 236.

22                      Well, maybe it's easier, as was done with  
23          Mr. Sherriff-Scott, to put the portion up on the screen, if  
24          I might. If that's acceptable, Mr. Commissioner.

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



1                   **MR. CALLAGHAN:** If it's ---

2                   **THE COMMISSIONER:** It would be a transcript,  
3                   Madam Clerk.

4                   **MR. CALLAGHAN:** But if it's not there, we  
5                   can just -- all right. Then that's document 738023. Oh,  
6                   you've got it right there. Okay. And it's at page 210, at  
7                   the bottom.

8                                   **(SHORT PAUSE/COURTE PAUSE)**

9                   **THE COMMISSIONER:** Okay. So this document  
10                   will have to be made an exhibit at some other time. It  
11                   will be exhibit 250, when we find the paper document.

12                   **MR. CALLAGHAN:** Thank you, Mr. Commissioner.  
13                   So just at the bottom it says -- and they're  
14                   talking about your notes and it says:

15                   Question:

16                                   "All right, I guess I don't know how to  
17                                   describe these. I don't think it's  
18                                   necessary to make them exhibits but  
19                                   they are two pages beginning October  
20                                   11<sup>th</sup> '95."

21                   And you say:

22                                   "We; who is involved here then besides  
23                                   you?"

24                   **THE COMMISSIONER:** Next page.

25                   **MR. CALLAGHAN:** If you go to the next page,

1 answer:

2 "Well, no, it's just my notes but there  
3 were a few people that wanted to put a  
4 rally together in front of the Crown  
5 Attorney's office."

6 Question:

7 "Who was that then? Who was the group  
8 that wants to do that? Who are you  
9 discussing this with; with Lapierre,  
10 for instance, is he part of that?"

11 Answer:

12 "Yes."

13 Question:

14 "Perry Dunlop?"

15 Answer:

16 "Yes."

17 Question:

18 "And his brother-in-law?"

19 "No."

20 "And his brother-in-law and wife; his

21 wife?"

22 Question:

23 "Chisholm?"

24 Answer:

25 "Yes."

1                   And that's to indicate that Carson Chisholm  
2           was involved, Mr. MacDonald? Just to get the clarity of  
3           that answer.

4                   **MR. MacDONALD:** Yes.

5                   **MR. CALLAGHAN:** Yes.

6                   "All of that group? Okay and David  
7           Silmsen, no doubt?"

8                   Answer:

9                   "No. David wasn't there. John  
10          Maloney, as well."

11                  Question:

12                  "I don't know who John Maloney is."

13                  "I don't know if you know him."

14                  Question:

15                  "Did we ask last time?"

16                  So you're getting involved in the early  
17          October with a rally against Malcolm MacDonald's sentence.  
18          Right?

19                  **MR. MacDONALD:** Okay.

20                  **MR. CALLAGHAN:** And that related to his  
21          involvement with David Silmsen, not you. Right?

22                  **MR. MacDONALD:** Correct.

23                  **MR. CALLAGHAN:** All right.

24                  You then wrote a letter to the Attorney  
25          General on, I believe it was August -- pardon me -- October

1 24<sup>th</sup>?

2 **MR. SHERRIFF-SCOTT:** Mr. Commissioner.

3 **THE COMMISSIONER:** Yes.

4 **MR. SHERRIFF-SCOTT:** The transcript is  
5 already Exhibit 255.

6 **THE COMMISSIONER:** Thank you.

7 **MR. CALLAGHAN:** My apologies.

8 **THE COMMISSIONER:** Exhibit 255 -- 235?

9 **MR. SHERRIFF-SCOTT:** No, 255.

10 **THE COMMISSIONER:** Well, 255? We're not up  
11 to 255, are we?

12 **THE REGISTRAR:** It could be 236.

13 It was already entered before.

14 **THE COMMISSIONER:** Okay. So Exhibit 236 is  
15 the document that we're talking about now. Is it the same  
16 document that Mr. Sherriff-Scott was speaking of?

17 **THE REGISTRAR:** No, it's different.

18 **THE COMMISSIONER:** Okay.

19 **THE REGISTRAR:** This one is 236.

20 **THE COMMISSIONER:** Okay. So let the record  
21 reflect that what Mr. Sherriff-Scott was speaking of when  
22 his cross-examination was Exhibit 236 and we're here now  
23 with you.

24 All right, Mr. Callaghan.

25 **MR. CALLAGHAN:** Then, if I might, Exhibit

1           221 is your letter of October 24<sup>th</sup>, '95. This is a letter  
2           of the Attorney General.

3                       I take it that what's referenced there are  
4           all the newspaper articles that were given to you by Perry  
5           Dunlop?

6                       **MR. MacDONALD:** Correct.

7                       **MR. CALLAGHAN:** It deals with -- it's a  
8           letter dealing in large measure about the sentence issue,  
9           right?

10                      **MR. MacDONALD:** Correct.

11                      **MR. CALLAGHAN:** Did they help you write that  
12           letter?

13                      **MR. MacDONALD:** Absolutely not.

14                      **MR. CALLAGHAN:** All right. How was it you  
15           got drawn in to that rally with someone like Mr. Carson  
16           Chisholm who on the 29<sup>th</sup> of September, you said you didn't  
17           trust, like less than two weeks before?

18                      **MR. MacDONALD:** I can think for myself and  
19           something was wrong.

20                      **MR. CALLAGHAN:** All right. But you're  
21           working together with him and Mr. Dunlop, according to the  
22           transcript. It said you were working on the rally.

23                      **MR. MacDONALD:** I don't need any help with  
24           making up my mind to do what I want to do.

25                      **MR. CALLAGHAN:** But you needed the articles

1 to write the letter, did you not?

2 MR. MacDONALD: Yes.

3 MR. CALLAGHAN: Did you talk to Mr. Dunlop  
4 about the need for the articles to write the letter?

5 MR. MacDONALD: Wait. I want to clarify  
6 that. Can you repeat that question?

7 MR. CALLAGHAN: Well, I say you needed the  
8 articles ---

9 MR. MacDONALD: You said I needed the  
10 articles to write the ---

11 MR. CALLAGHAN: --- the letter.

12 MR. MacDONALD: No, I wrote the letter  
13 because of the articles.

14 MR. CALLAGHAN: I see. Okay.

15 So the articles weren't given to assist you  
16 in writing the letter?

17 MR. MacDONALD: No.

18 MR. CALLAGHAN: I see.

19 Did you work on any other projects with Mr.  
20 Chisholm and Mr. Dunlop? I know it's an odd way to put it.  
21 I didn't mean to make it sound like a science project.

22 MR. MacDONALD: That's a very odd way to put  
23 it.

24 MR. CALLAGHAN: But I'm just not sure if I  
25 know -- you said you didn't really talk to Mr. Dunlop about

1 your case but did you work on any other projects with him?

2 MR. MacDONALD: I don't know.

3 MR. CALLAGHAN: All right. You've already  
4 testified that I take it, Mr. Dunlop knew enough about your  
5 lawsuit to help you get Mr. Bourgeois?

6 MR. MacDONALD: Wow.

7 MR. CALLAGHAN: Well, did he? Did he help  
8 you get Mr. Bourgeois? Did he not?

9 MR. MacDONALD: He may have suggested Mr.  
10 Bourgeois.

11 MR. CALLAGHAN: So you didn't -- he didn't  
12 know anything about your case?

13 MR. MacDONALD: I'm sure he did know about  
14 my case.

15 MR. CALLAGHAN: Did you talk to him about  
16 your lawsuit?

17 MR. MacDONALD: Probably.

18 MR. CALLAGHAN: Did he talk to you about his  
19 lawsuit that he had with Mr. Bourgeois?

20 MR. MacDONALD: I don't think so.

21 MR. CALLAGHAN: You don't think so. All  
22 right.

23 Did you attend any meetings with any other  
24 lawyers, with Mr. Dunlop?

25 MR. MacDONALD: No.

1                   **MR. CALLAGHAN:** No? You didn't attend one  
2 with Mr. Morris?

3                   **MR. MacDONALD:** No.

4                   **MR. CALLAGHAN:** No?

5 Did you ever meet Mr. Morris?

6                   **MR. MacDONALD:** No.

7                   **MR. CALLAGHAN:** All right.

8 Did you ever speak to anybody about your  
9 lawsuit, such as Albert Roy? Did you speak to him?

10                  **MR. MacDONALD:** No.

11                  **MR. CALLAGHAN:** No.

12 If I could, Madam Registrar, I'm looking for  
13 Commission Doc 116241. These are the notes of Perry  
14 Dunlop. I'm looking for a particular Bates stamp because  
15 there a number of them. I'm looking for Bates stamp  
16 1091499.

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

18                  **MR. CALLAGHAN:** All right. These are notes

19 ---

20                  **THE COMMISSIONER:** Can we just ---

21                  **MR. CALLAGHAN:** They aren't exhibits, I  
22 guess.

23                  **THE REGISTRAR:** What's the page number?

24                  **MR. CALLAGHAN:** It doesn't have a page. It  
25 has a Bates stamp. That's 1091499.



1 (SHORT PAUSE/COURTE PAUSE)

2 THE COMMISSIONER: Exhibit 255 and these  
3 are, you say, Constable Dunlop's notes.

4 ---EXHIBIT NO./PIÈCE NO P-255:

5 Handwritten notes by Perry Dunlop -  
6 September 30, 1996.

7 MR. CALLAGHAN: Yes, yes Mr. Commissioner.  
8 I am looking at a note of February 14, '97.

9 THE COMMISSIONER: So third page in.

10 MR. CALLAGHAN: Yes.

11 This is dated February 14, '97, do you see  
12 that, Mr. MacDonald?

13 MR. MacDONALD: Yes.

14 MR. CALLAGHAN: Now, your preliminary  
15 inquiry started on February 24<sup>th</sup>, '97, do you recall that?

16 MR. MacDONALD: Yes.

17 THE COMMISSIONER: Well, not his preliminary  
18 inquiry.

19 MR. CALLAGHAN: Sorry, preliminary inquiry  
20 to which he testified. Mr. Commissioner, thank you.

21 It says:

22 "Call John MacDonald's mother with  
23 Cornwall. Greg MacDonald. Asked her  
24 about the report -- to reporting to  
25 Bishop re John's sexual assault. This

1 is M.  
2 "Said remembers her son Mike gone on a  
3 retreat to Ottawa with Father Charles  
4 MacDonald. Said that when he got home  
5 on Sunday, he came into the house and  
6 told her 'Don't ever send me to one of  
7 the retreats again.'  
8 He stated an old priest had attempted  
9 or came on to him all weekend. She  
10 reported the incident to Father Charlie  
11 but nothing was ever done about it."

12 Now that's consistent with you mom's  
13 statement in Exhibit 253. Do you have any idea why  
14 Constable Dunlop would be interviewing your mother?

15 **MR. MacDONALD:** No.

16 **MR. CALLAGHAN:** You didn't suggest it?

17 **MR. MacDONALD:** No.

18 **MR. CALLAGHAN:** You don't have any reason to  
19 believe that he was doing it in advance of your testimony  
20 at the preliminary inquiry?

21 **MR. MacDONALD:** No.

22 **MR. CALLAGHAN:** All right. He attended the  
23 preliminary inquiry, when you testified? Do you recall?

24 **MR. MacDONALD:** I don't recall.

25 **MR. CALLAGHAN:** Now, did Constable Dunlop

1 provide you with any of the fruits of his investigations?

2 MR. MacDONALD: No.

3 MR. CALLAGHAN: Do you know if he shared  
4 them with any of your lawyers?

5 MR. MacDONALD: I don't know.

6  
7 (SHORT PAUSE/COURTE PAUSE)

8 MR. CALLAGHAN: I just want to return to the  
9 issue of your discussion with Emma Wilson-King, I take it  
10 then that it's only five months later that you write a  
11 letter to Chief Repa, right? It's not until January of  
12 '97.

13 MR. MacDONALD: If that's what the date  
14 says, yes.

15 MR. CALLAGHAN: It's '96, sorry. Right. I  
16 take it that you got the letter from Deputy St. Denis and  
17 were a little confused by it, correct?

18 MR. MacDONALD: Correct.

19 MR. CALLAGHAN: You ended up speaking to  
20 Constable Bob Burnie.

21 MR. MacDONALD: Correct.

22 MR. CALLAGHAN: And you've known Bob Burnie  
23 your whole life.

24 MR. MacDONALD: Correct.

25 MR. CALLAGHAN: And you could trust Bob  
26 Burnie.

1                   **MR. MacDONALD:** Yes.

2                   **MR. CALLAGHAN:** All right. And in fact, one  
3 of your sisters works for one of his family members.

4                   **MR. MacDONALD:** Correct.

5                   **MR. CALLAGHAN:** And I read somewhere, did  
6 you tape that conversation?

7                   **MR. MacDONALD:** Yes.

8                   **MR. CALLAGHAN:** Was that at someone's  
9 suggestion or why would you ---

10                  **MR. MacDONALD:** No, that was mine.

11                  **MR. CALLAGHAN:** All right. And I take it  
12 that when you concluded that discussion, you could have  
13 gone back to Bob Bernie and asked him anything because you  
14 knew him well enough.

15                  **MR. MacDONALD:** Yes.

16                  **MR. CALLAGHAN:** All right. And I take it  
17 you never did go back?

18                  **MR. MacDONALD:** No.

19                  **MR. CALLAGHAN:** All right. And a last area,  
20 there is a document Madam Registrar that I just want to  
21 quickly show the witness, which I have here. This is  
22 Document 737943.

23                  **THE COMMISSIONER:** Exhibit 256 is a document  
24 dated March 25<sup>th</sup>, '96 and the notes dealing with meeting  
25 with Richard Abell. Whose notes are they, do you know?

1           **---EXHIBIT NO./PIÈCE NO P-256:**

2                           Handwritten notes from a meeting with  
3                           Richard Abell - March 25, 1996.

4           **MR. CALLAGHAN:** I believe there are Mr.  
5           MacDonald's, are these your notes?

6           **MR. MacDONALD:** Yes.

7           **MR. CALLAGHAN:** All right. Were these notes  
8           made in preparation of that meeting or at that meeting or  
9           do you recall?

10           **MR. MacDONALD:** Probably in preparation to  
11           that meeting.

12           **MR. CALLAGHAN:** Okay. And it says, the  
13           first one I just want to ask you about, it says "Dave",  
14           that's Dave Silmser?

15           **MR. MacDONALD:** Yes.

16           **MR. CALLAGHAN:** Says that he met with  
17           Gregory Bell at least six months previous to Perry bringing  
18           in statement to you, any truth to this? You see that?

19           **MR. MacDONALD:** Yes.

20           **MR. CALLAGHAN:** All right. Am I to  
21           understand that Dave Silmser told you that he reported the  
22           abuse by Father Charlie MacDonald to Children's Aid Society  
23           six months before Constable Dunlop ---

24           **MR. MacDONALD:** That's what Dave told me.

25           **MR. CALLAGHAN:** All right. And in what

1 context did Dave tell you that?

2 MR. MacDONALD: I can't recall.

3 MR. CALLAGHAN: Okay. Had you heard of it  
4 from any other source other than Dave Silmser?

5 MR. MacDONALD: No.

6 MR. CALLAGHAN: All right. And did Mr.  
7 Abell confirm or deny that statement?

8 MR. MacDONALD: He handed me a slip of  
9 paper, that's the one Dave's first meeting was with CAS  
10 people and I never even looked at the slip of paper.

11 MR. CALLAGHAN: Do you still have that slip  
12 of paper?

13 MR. MacDONALD: No.

14 MR. CALLAGHAN: All right. So you can't  
15 tell us now whether that slip of paper said that Dave  
16 Silmser came in ---

17 MR. MacDONALD: What Dave had on it, I have  
18 no idea.

19 MR. CALLAGHAN: And have you talked to Dave  
20 Silmser subsequently?

21 MR. MacDONALD: About that?

22 MR. CALLAGHAN: Yes.

23 MR. MacDONALD: No.

24 MR. CALLAGHAN: And the slip of paper, what  
25 did it look like?

1                   **MR. MacDONALD:** Just a folded -- almost size  
2 of a post-it note with a date on it.

3                   **MR. CALLAGHAN:** You can't recall the date?

4                   **MR. MacDONALD:** I never looked at it.

5                   **MR. CALLAGHAN:** You never looked at it,  
6 okay. And ---

7                   **MR. MacDONALD:** And I am going to tell you  
8 why. I'm sitting here "Do I expand on that?" but I have  
9 to. There was very few people that I trusted at the time.  
10 So if Dave was saying that he was there before and --  
11 somebody was lying to me. In that circle of people that I  
12 had trusted, somebody was lying to me. And really I didn't  
13 want to know who and that's why I didn't look at the piece  
14 of paper.

15                   **MR. CALLAGHAN:** Right, because you trusted  
16 Mr. Abell obviously as you said earlier.

17                   **MR. MacDONALD:** Correct.

18                   **MR. CALLAGHAN:** Just have to ask this, since  
19 our last attendance, have you spoken to anybody about your  
20 testimony?

21                   **MR. MacDONALD:** About my testimony?

22                   **MR. CALLAGHAN:** Yes. About what you've  
23 testified to or what you've about to testify to.

24                   **MR. MacDONALD:** Yes.

25                   **MR. CALLAGHAN:** Who would that be?

1                   **MR. MacDONALD:** David Silmser.

2                   **MR. CALLAGHAN:** And what did you talk to him  
3                   about?

4                   **MR. MacDONALD:** Things that were bothering  
5                   me that will be coming up later on.

6                   **MR. CALLAGHAN:** Later on ---

7                   **MR. MacDONALD:** When my lawyer has a chance  
8                   to ask me a few questions.

9                   **MR. CALLAGHAN:** So you've gone over your  
10                  questions with your lawyer since the last time we attended?

11                  **MR. MacDONALD:** I pointed out some areas  
12                  that were bothering me.

13                  **MR. CALLAGHAN:** All right. Well, can you  
14                  tell me so that we may an opportunity to know what -- an  
15                  issue of what you discussed with Mr. Silmser at least?

16                  **MR. MacDONALD:** I am looking for help Bryce.  
17                  I have some issues with the Crown Attorney.

18                  **MR. CALLAGHAN:** All right. And you  
19                  discussed that with Mr. Silmser?

20                  **MR. MacDONALD:** Yes.

21                  **MR. CALLAGHAN:** And what did you discuss  
22                  with Mr. Silmser in that regard?

23                  **MR. MacDONALD:** Just what was bothering me  
24                  which again will come up in the ---

25                  **MR. CALLAGHAN:** Okay. But can you just tell



1 me exactly what you told Mr. Silmsler because ---

2 MR. MacDONALD: Oh, my God.

3 MR. CALLAGHAN: --- I may be the only one to  
4 ask the question?

5 MR. MacDONALD: I pointed out things in the  
6 Pelletier letter that were bothering me and told him what  
7 my reaction might be which again, will come up ---

8 MR. CALLAGHAN: And then, did he agree with  
9 your reaction?

10 MR. MacDONALD: Probably.

11 MR. CALLAGHAN: And how long did this  
12 conversation go on for?

13 MR. MacDONALD: I don't know.

14 MR. CALLAGHAN: You don't know?

15 MR. MacDONALD: No, I don't know.

16 MR. CALLAGHAN: Okay, it was only in the  
17 last -- less than four weeks ago.

18 MR. MacDONALD: I meet with David maybe  
19 every second night for coffee, with David and his wife.

20 MR. CALLAGHAN: I didn't appreciate that, so  
21 would you talk about your evidence with him over those  
22 occasions or was this just once?

23 MR. MacDONALD: Not necessarily, just meet  
24 for coffee.

25 MR. CALLAGHAN: And that's the only issue

1           you recall talking to him about?

2                       **MR. MacDONALD:** Yes.

3                       **MR. CALLAGHAN:** All right. And did you  
4 convey to the Commission counsel that you talked to David  
5 Silmser about you evidence?

6                       **MR. MacDONALD:** I didn't know I had to.

7                       **MR. CALLAGHAN:** All right. And did you talk  
8 to anybody else about your evidence?

9                       **MR. MacDONALD:** No.

10                      **MR. CALLAGHAN:** Well, you've talked to Mr.  
11 Geoffrey in between or ---

12                      **MR. MacDONALD:** Well ---

13                      **MR. CALLAGHAN:** Well, that's not permitted  
14 either, so you've talked to him during the currency of this  
15 regarding evidence that's come up which you'd like to have  
16 an opportunity to reply to.

17                      **MR. MacDONALD:** To address, yes.

18                      **MR. CALLAGHAN:** All right. And did you talk  
19 to -- say, Carson Chisholm?

20                      **MR. MacDONALD:** No.

21                      **MR. CALLAGHAN:** Did he hand you a note when  
22 you were on the stand at some point?

23                      **MR. MacDONALD:** No. He gave me a prayer  
24 card.

25                      **MR. CALLAGHAN:** Okay. He gave you a prayer

1 card. And so there is nobody else that you would have  
2 spoken to about your evidence?

3 **MR. MacDONALD:** No.

4 **MR. CALLAGHAN:** Those are my questions.

5 **THE COMMISSIONER:** Thank you.

6 Yes, sir.

7 **MR. GEOFFREY:** Just one point of  
8 clarification, Mr. Commissioner, perhaps will assist you  
9 and my friends as well. Before he began his cross-  
10 examination, Mr. MacDonald was provided through your  
11 counsel with the opportunity to review a large volume of  
12 documentation and that was various documents that counsel  
13 had advised that they may wish to refer him to during the  
14 context of his cross-examination.

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

16 **MR. GEOFFREY:** One of those documents is the  
17 letter from Mr. Pelletier which he has referred to  
18 repeatedly in his cross-examination. And before beginning  
19 his cross-examination, Mr. MacDonald had indicated to me  
20 that he had various concerns with respect to certain of the  
21 contents of that letter and provided me with instructions  
22 that at the conclusion of his cross-examination, that he  
23 wished to be examined with respect to that.

24 Now, unless I am wrong in -- that's the  
25 reference that he was making with respect to having

1 discussed his evidence with me and that basically arose at  
2 an earlier time. And that's all I can assist with.

3 **THE COMMISSIONER:** Good, thank you.

4 So we will break and come back at tomorrow  
5 morning at 9:30.

6 **MR. DUMAIS:** Yes, Commissioner, and perhaps  
7 just before we leave for the day, I was handed, a short  
8 time ago, the decision from the Court of Appeal on the  
9 Diocese appeal which was dismissed by unanimous court. The  
10 decision or the operation of the decision is suspended for  
11 a period of 10 days to permit them to consider their  
12 options.

13 **THE COMMISSIONER:** Thank you.

14 **MR. DUMAIS:** I'll see you tomorrow morning  
15 Mr. MacDonald.

16 **MR. MacDONALD:** Okay, thank you.

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

19 --- The hearing is adjourned at 4:26 p.m. /

20 L'audience est suspendue à 16h26.

21

22

23

24

25

C E R T I F I C A T I O N

I, Sean Prouse a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Sean Prouse, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hauts sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



---

Sean Prouse, CVR-CM