

**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 344**

**Held at :**

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

Wednesday, January 28, 2009

**Tenue à:**

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

Mercredi, le 28 janvier 2009

## ERRATA

August 22nd, 2007 - Volume 129

### Transcript:

#### Page 24, Line 12

In this case, much of my balancing is dealt with by an existing order under a previous case dealing with this person, which is section 46(4), as it then was, which basically says that the identity or any facts tending to identify the witness shall not be published or broadcast in any way, and that is still outstanding.

#### Should have read:

In this case, much of my balancing is dealt with by an existing order under a previous case dealing with this person, which is section 486, as it then was, which basically says that the identity or any facts tending to identify the witness shall not be published or broadcast in any way, and that is still outstanding.

#### Page 25, line 12 and 15

The only other matter I wish to stipulate is that I don't know that I will go further than prohibit -- or extend the prohibition that is involved in the 46 order, in the sense that the press, if they wish to publish a rendition of what has occurred here, will be able to do so, so long as it does not violate section 46(4), which is the existing order.

#### Should have read:

The only other matter I wish to stipulate is that I don't know that I will go further than prohibit -- or extend the prohibition that is involved in the 486 order, in the sense that the press, if they wish to publish a rendition of what has occurred here, will be able to do so, so long as it does not violate section 486, which is the existing order.

Volume 340, January 22<sup>nd</sup>, 2009

Omitted exhibits in the exhibit list

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Volume 341, January 23<sup>rd</sup>, 2009

Transcript

Page 176, Line 3

**THE COMMISSIONER:** Ms. Henein, I should tell you though, I don't know that I need to hear and I don't know if you were thinking of exploring the merits of the 11(b) application your client wanted fair and square, and there's no suggestion that you or any Defence counsel did anything inappropriate. So I don't need to hear from you on those things.

**Should have read:**

**THE COMMISSIONER:** Ms. Henein, I should tell you though, I don't know that I need to hear and I don't know if you were thinking of exploring the merits of the 11(b) application your client **won** fair and square, and there's no suggestion that you or any Defence counsel did anything inappropriate. So I don't need to hear from you on those things.

**Appearances/Comparutions**

Ms. Brigitte Beaulne	Registrar
M <sup>e</sup> Pierre R. Dumais	Commission Counsel
Ms. Karen Jones	
Ms. Maya Hamou	
Mr. Mark Crane	Cornwall Community Police Service and Cornwall Police Service Board
Mr. Stephen Scharbach	Attorney General for Ontario
Mr. Christopher Thompson	
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Juda Strawczynski	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Mr. Michael Neville	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
Mr. William Carroll	Ontario Provincial Police Association
Ms. Jennifer Birrell	Catholic District School Board
Mr. Frank T. Horn	Coalition for Action
Mr. Robert Keel	Keel Cottrelle
Mr. Jean-Paul Scott	
Mr. David Thomas	

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1 --- Upon commencing at 10:09 a.m./

2 L'audience débute à 10h09

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

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

8 Please be seated. Veuillez vous asseoir.

9 ---OPENING REMARKS BY THE COMMISSIONER/REMARQUES

10 **D'OUVERTURE PAR LE COMMISSAIRE :**

11 **THE COMMISSIONER:** Thank you. Good morning,  
12 all. My apologies for being late. There is a storm out  
13 there, so normally I would urge people who are travelling -  
14 - well, close down fast enough so that people get home  
15 during daylight hours.

16 However, we're planning to sit tonight and,  
17 you know, without -- given the fact that we have a certain  
18 date and a limit, there's nothing I can do about that and  
19 so we'll have to sit until we're finished tonight. Thank  
20 you.

21 Those of you who wish to go home tonight,  
22 please feel free to leave whenever you can. Okay, go  
23 ahead.

24 ---OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MS. HAMOU:

25 **MS. HAMOU:** Good morning, Mr. Commissioner.

1                   **THE COMMISSIONER:** Good morning.

2                   **MS. HAMOU:** I'd like to introduce to you  
3 Jennifer Birrell, who's here as counsel for the Catholic  
4 District School Board. She's been before you some time  
5 ago.

6                   **THE COMMISSIONER:** Yes. Hello again.

7                   **MS. HAMOU:** This morning we'll be entering a  
8 Party Factual Overview for the Catholic District School  
9 Board. The document is similar to an ODE. It is a  
10 document prepared by the party. Ms. Birrell will be  
11 reading in the factual overview and setting out the  
12 background of her client's institutional response.

13                   To assist Ms. Birrell, I will enter the  
14 exhibits for her.

15                   **THE COMMISSIONER:** Yes.

16                   **MS. HAMOU:** And I will let her read the ODE  
17 in.

18                   I understand Mr. Crane has an objection he'd  
19 like to put on the record.

20                   **THE COMMISSIONER:** Yes.

21 **---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. CRANE:**

22                   **MR. CRANE:** Good morning, Mr. Commissioner.

23                   **THE COMMISSIONER:** Mr. Crane.

24                   **MR. CRANE:** Sir, I've reviewed the Factual  
25 Overview and we consider it something to be akin to an ODE,

1 and for those reasons I'd wish to register three objections  
2 to you.

3 One, the document should not be used as a  
4 foundation for a finding of misconduct in your final  
5 report. Secondly, sir, the document should not be used --  
6 should not be proffered for the truth of its contents nor  
7 for the truth of the contents appended therein. And  
8 finally ---

9 **THE COMMISSIONER:** Just a minute. Truth of  
10 the contents appended therein?

11 **MR. CRANE:** That's correct, sir.

12 **THE COMMISSIONER:** What does that mean?

13 **MR. CRANE:** Well, sir, the document  
14 shouldn't be read as to suggest that either -- the Factual  
15 Overview shouldn't be proffered for the truth of its  
16 contents, nor should the paragraph within the Factual  
17 Overview suggest that the appended document is -- that  
18 document is being proffered for the truth of its contents.

19 **THE COMMISSIONER:** Well, that's a little  
20 change now, sir. That isn't the "Manderville trot" as I've  
21 -- as I -- they've done it before.

22 **MR. CRANE:** In fairness ---

23 **THE COMMISSIONER:** Fairness? Yes.

24 **MR. CRANE:** --- I did review the transcript  
25 of Ms. Lalji's submissions to you last week with regards to

1 Ms. Seguin's Factual Overview, and that language would be  
2 consistent.

3 **THE COMMISSIONER:** Well, then I didn't catch  
4 that. Let me just say that, to make it very clear, usually  
5 you make your submissions and then we go away and that's  
6 fine, but I want to put you on notice that if that -- with  
7 respect to the documents that are filed, right, that I can  
8 do whatever I want with those documents.

9 **MR. CRANE:** I understand that, sir.

10 **THE COMMISSIONER:** Oh, okay.

11 **MR. CRANE:** Yes.

12 **THE COMMISSIONER:** Okay.

13 **MR. CRANE:** Not raising my objection with  
14 respect to the exhibits to be entered themselves, sir, but  
15 rather any truthfulness that's being tendered with regards  
16 to the Factual Overview.

17 **THE COMMISSIONER:** Oh no, no. We're all on  
18 the same page. Okay.

19 **MR. CRANE:** And, finally, sir, the Factual  
20 Overview shouldn't be used to bolster or detract from a  
21 witness who's testified before you at this Commission.

22 **THE COMMISSIONER:** The overview will not.  
23 Thank you.

24 **MR. CRANE:** Thank you, sir.

25 **THE COMMISSIONER:** All right.

1                   **MS. HAMOU:** Well, Mr. Commissioner, if I may  
2 I'll proceed with entering the documents?

3                   **THE COMMISSIONER:** Yes.

4                   **MS. HAMOU:** The first document that should  
5 be entered is the Factual Overview.

6                   **THE COMMISSIONER:** Yes.

7                   **MS. HAMOU:** And I understand that's -- the  
8 next exhibit number is 3336.

9                   **THE COMMISSIONER:** Thank you.

10                                 So it will be the Factual Overview of the  
11 Catholic District School Board of Eastern Ontario.

12                   **--- EXHIBIT NO./PIÈCE NO. P-3336:**

13                                 Factual Overview, Catholic District School  
14 Board of Eastern Ontario

15                   **MS. HAMOU:** The next document is 117821.

16                   **THE COMMISSIONER:** Yes, and that is a copy  
17 of an affidavit of Marcel Lalonde, and that is Exhibit 3337  
18 and that affidavit is sworn on the 2<sup>nd</sup> day of June, 1997.

19                   **--- EXHIBIT NO./PIÈCE NO. P-3337:**

20                                 (117821) - Affidavit of Marcel Lalonde dated  
21 June 02, 1997

22                   **MS. HAMOU:** The next document is 121501 and,  
23 Mr. Commissioner, I just want to bring your attention; Mr.  
24 Lee has asked to add this document and been done on consent  
25 with Ms. Birrell, and perhaps when they get to the relevant

1 paragraph it can be further explained.

2 **THE COMMISSIONER:** Okay. Just a second now.  
3 So this is a document dated January 24<sup>th</sup>, 2001. And what  
4 are we going to call this?

5 **MS. HAMOU:** A note? Perhaps Mr. Lee can  
6 inform us.

7 **MR. LEE:** Sir, there should be a back side  
8 to your sheet as well.

9 **THE COMMISSIONER:** There is.

10 **MR. LEE:** We have a doctor's note from a Dr.  
11 Forson relating to Mr. Greggain, dated January 18<sup>th</sup>, 2001  
12 and a note from Mr. Greggain to Human Resources dated  
13 January 24, '01 enclosing a doctor's note.

14 **THE COMMISSIONER:** All right. Exhibit 3338,  
15 thank you.

16 **--- EXHIBIT NO./PIÈCE NO. P-3338:**

17 (121501) - Note from Gilf Greggain re: Dr.  
18 Forson note dated January 24, 2001 (738583)

19 **MS. HAMOU:** The next document is 121343.

20 **THE COMMISSIONER:** Yes, thank you.

21 That's a letter to -- is it Gilf?

22 **MS. HAMOU:** Gilf Greggain.

23 **THE COMMISSIONER:** Gilf Greggain, dated  
24 October 9<sup>th</sup>, 1997 from Carolina Willsher, Director of Human  
25 Resources. Exhibit 3339.

1           **--- EXHIBIT NO./PIÈCE NO. P-3339:**

2                           (121343) - Letter from Caroline Willsher to  
3                           Gilf Greggain dated October 9, 1997

4           **MS. HAMOU:** The next document is 121345.

5           **THE COMMISSIONER:** Thank you.

6                           Exhibit 3340 is a career profile, I guess,  
7                           or curriculum vitae of Gilf Greggain; 3340.

8           **--- EXHIBIT NO./PIÈCE NO. P-3340:**

9                           (121345) - Curriculum Vitae of Gilf Greggain

10           **MS. HAMOU:** The next document is 121380.

11           **THE COMMISSIONER:** Thank you.

12                           Exhibit 3341 is a document entitled  
13                           "Probationary Teacher's Contract" dated the 9<sup>th</sup> day of June,  
14                           1967.

15           **--- EXHIBIT NO./PIÈCE NO. P-3341:**

16                           (121380) - Probationary Teacher's Contract  
17                           re: Gilf Greggain dated June 9, 1967

18           **MS. HAMOU:** The next document is 121478.

19           **THE COMMISSIONER:** Thank you.

20                           Exhibit Number 3342 is a letter dated the --  
21                           1988/07/04 to Gilf Greggain from Roland Poirier.

22           **--- EXHIBIT NO./PIÈCE NO. P-3342:**

23                           (121478) - Letter from Roland Poirier to  
24                           Gilf Greggain dated July 4, 1988

25           **MS. HAMOU:** Next document is 121479.

1                   **THE COMMISSIONER:** Thank you.

2                   This is a letter dated July 4<sup>th</sup>, 1988 to  
3                   Monsieur Poirier from Gilf Greggain and that is Exhibit  
4                   3343.

5                   **--- EXHIBIT NO./PIÈCE NO. P-3343:**

6                   (121479) - Letter from Gilf Greggain to  
7                   Roland Poirier dated July 4, 1988

8                   **MS. HAMOU:** Next document is 121498.

9                   **THE COMMISSIONER:** Thank you.

10                  Exhibit 3344 is a letter dated December 1<sup>st</sup>,  
11                  1997 addressed to Gilf Greggain from Roger Davidson,  
12                  Director of Education.

13                  **--- EXHIBIT NO./PIÈCE NO. P-3344:**

14                  (121498) - Letter from Roger Davidson to  
15                  Gilf Greggain dated December 1, 1997

16                  **MS. HAMOU:** The next document is 121499.

17                  **THE COMMISSIONER:** Thank you.

18                  This Exhibit, 3345, is a Notice of Transfer  
19                  of Employment dated February 23<sup>rd</sup> (sic) -- I believe that's  
20                  1998.

21                  **--- EXHIBIT NO./PIÈCE NO. P-3345:**

22                  (121499) - Notice of Transfer of Employment  
23                  re: Gilf Greggain dated February 17, 1998

24                  **MS. HAMOU:** The next document is 121502.

25                  **THE COMMISSIONER:** Thank you.

1 Exhibit 3346 looks like an email  
2 correspondence from Barbara Renaud to Francine Barque, and  
3 that's dated on the 17<sup>th</sup> of May, '01.

4 --- EXHIBIT NO./PIÈCE NO. P-3346:

5 (121502) - E-mail of Barb Renaud re: Gilf  
6 Greggain dated May 17, 2001

7 MS. HAMOU: The next document is 121503.

8 THE COMMISSIONER: Thank you.

9 Exhibit Number 3347 is an Employee's Salary  
10 Control Sheet.

11 --- EXHIBIT NO./PIÈCE NO. P-3347:

12 (121503) - Employee's Salary Control Sheet  
13 re: Gilf Greggain

14 MS. HAMOU: The next document is 121511.

15 THE COMMISSIONER: Thank you.

16 Exhibit 3348 is a letter from Marcel Lalonde  
17 to Mrs. McNally dated October 27<sup>th</sup>, 2000.

18 --- EXHIBIT NO./PIÈCE NO. P-3348:

19 (121511) - Letter from Marcel Lalonde to  
20 Greg McNally re: Employment Status dated  
21 October 27, 2000

22 MS. HAMOU: The next document is 121526.

23 THE COMMISSIONER: Thank you.

24 Exhibit Number 3349 is a letter dated  
25 November 28<sup>th</sup>, 2000 to Joe Atkinson from Deborah Collins.

1           **--- EXHIBIT NO./PIÈCE NO. P-3349:**

2                           (121526) - Letter from Deborah Collins to  
3                           Joe Atkinson re: Marcel Lalonde dated  
4                           November 28, 2000

5           **MS. HAMOU:** Next document is 121528.

6           **THE COMMISSIONER:** Thank you.

7                           Exhibit Number 3350 is a letter to Marcel  
8                           Lalonde from Karen McDowell dated November 22<sup>nd</sup>, 2000.

9           **--- EXHIBIT NO./PIÈCE NO. P-3350:**

10                           (121528) - Letter from Karen McDowell to  
11                           Marcel Lalonde dated November 22, 2000

12           **MS. HAMOU:** Next document is 121529.

13           **THE COMMISSIONER:** Thank you.

14                           Exhibit 3351 is a letter dated September  
15                           10<sup>th</sup>, 1997 to Marcel Lalonde from Carolina Willsher.

16           **--- EXHIBIT NO./PIÈCE NO. P-3351:**

17                           (121529) - Letter from Carolina Willsher to  
18                           Marcel Lalonde dated September 10, 1997

19           **MS. HAMOU:** Next document is 121530.

20           **THE COMMISSIONER:** Three-three-five-two  
21                           (3352) is the next exhibit. It's a document entitled  
22                           "Marcel Lalonde", indicating his school year and the levels  
23                           that he taught.

24           **--- EXHIBIT NO./PIÈCE NO. P-3352:**

25                           (121530) - List of year that Marcel Lalonde

1 taught at Bishop Macdonell School

2 **MS. HAMOU:** Next document is 121533.

3 **THE COMMISSIONER:** Thank you.

4 Exhibit Number 3353 is a letter to Mr. Fred  
5 DuVal dated June 13<sup>th</sup>, 2001 from Deborah Collins.

6 **--- EXHIBIT NO./PIÈCE NO. P-3353:**

7 (121533) - Letter from Deborah Collins to  
8 Fred DuVal re: Marcel Lalonde dated June 13,  
9 2001

10 **MS. HAMOU:** Next document is 121591.

11 **THE COMMISSIONER:** Thank you.

12 Exhibit Number 3354 is a letter dated the 2<sup>nd</sup>  
13 of June, 1987 to Marcel Lalonde from Roland Poirier.

14 **--- EXHIBIT NO./PIÈCE NO. P-3354:**

15 (121591) - Letter from Roland Poirier to  
16 Marcel Lalonde dated June 2, 1987

17 **MS. HAMOU:** Next document is 121595.

18 **THE COMMISSIONER:** Thank you.

19 Exhibit Number 3355 is a letter dated  
20 December 1<sup>st</sup>, 1997 to Marcel Lalonde from Roger Davidson.

21 **--- EXHIBIT NO./PIÈCE NO. P-3355:**

22 (121595) Letter from Roger Davidson to  
23 Marcel Lalonde dated December 1, 1997

24 **MS. HAMOU:** Next document is 121596.

25 **THE COMMISSIONER:** Thank you.

1 Exhibit 3356 is a letter dated December 1<sup>st</sup>,  
2 1997 to Marcel Lalonde from Carolina Willsher.

3 --- EXHIBIT NO./PIÈCE NO. P-3356:

4 (121596) Letter from Carolina Willsher to to  
5 Marcel Lalonde dated December 1, 1997

6 MS. HAMOU: Next document is 121600.

7 THE COMMISSIONER: Thank you.

8 Exhibit 3357 is a letter dated August 6<sup>th</sup>,  
9 1997 to a Mr. -- is it Lydon, from Marcel Lalonde.

10 --- EXHIBIT NO./PIÈCE NO. P-3357:

11 (121600) Letter from Marcel Lalonde to Mr.  
12 Lydon dated August 6, 1997

13 MS. HAMOU: That seems correct.

14 Next document is 121684.

15 THE COMMISSIONER: Thank you.

16 Exhibit 3358 is a Permanent Elementary  
17 School Teacher Certificate dated the 25<sup>th</sup> of June, '71.

18 --- EXHIBIT NO./PIÈCE NO. P-3358:

19 (121684) Permanent Elementary School  
20 Teacher's Certificate Standard 1 re: Marcel

21 Lalonde dated June 25, 1971

22 MS. HAMOU: Next document is 121685.

23 THE COMMISSIONER: Thank you.

24 Exhibit 3359 is an Interim Elementary School  
25 Teacher Certificate dated 24<sup>th</sup> of June, 1969.

1           **--- EXHIBIT NO./PIÈCE NO. P-3359:**

2                           (121685) Interim Elementary School Teacher's  
3                           Certificate Standard 1 re: Marcel Lalonde  
4                           dated June 24, 1969

5           **MS. HAMOU:** The next document is 121700.

6           **THE COMMISSIONER:** Thank you.

7                           Exhibit 3360 is a Teacher's Salary Control  
8           Sheet for Marcel Lalonde -- is that for Marcel Lalonde?  
9           Yes, it is. Thank you; 3360.

10          **--- EXHIBIT NO./PIÈCE NO. P-3360:**

11                           (121700) - Teacher's Salary Control Sheet  
12                           re: Marcel Lalonde

13          **S. HAMOU:** Next document is 121709.

14          **THE COMMISSIONER:** Thank you.

15                           Exhibit Number 3361 is a letter dated  
16           January 9<sup>th</sup>, 1997 to Marcel Lalonde from Kevin Lydon.

17          **--- EXHIBIT NO./PIÈCE NO. P-3361:**

18                           (121709) Letter from Kevin Lydon to Marcel  
19                           Lalonde dated January 9, 1997

20          **MS. HAMOU:** Next document is 121719.

21          **THE COMMISSIONER:** Thank you.

22                           Exhibit 3362 is a document entitled "Marcel  
23           Lalonde-Teaching History".

24          **--- EXHIBIT NO./PIÈCE NO. P-3362:**

25                           (121719) Handwritten notes from Carolina

1 Willsher re: Marcel Lalonde

2 **MS. HAMOU:** Next document is 121721.

3 **THE COMMISSIONER:** Thank you.

4 Exhibit Number 3363 is an information, again  
5 naming Marcel Lalonde as a defendant and it's sworn on the  
6 7<sup>th</sup> of January, 1997.

7 --- **EXHIBIT NO./PIÈCE NO. P-3363:**

8 (121721) Fax from OPP re: Marcel Lalonde  
9 dated January 7, 1997

10 **S. HAMOU:** The next document is 121723.

11 **THE COMMISSIONER:** Thank you.

12 Exhibit Number 3364 is a letter dated  
13 January 9<sup>th</sup>, 1997 to Marcel Lalonde et al, and -- I don't  
14 know -- I don't know what these notes are but in any event,  
15 it's a document dated January 9<sup>th</sup>, 1997.

16 --- **EXHIBIT NO./PIÈCE NO. P-3364:**

17 (121723) Handwritten notes from Carolina  
18 Willsher re: Marcel Lalonde dated January 9,  
19 1997

20 **MS. HAMOU:** The next document should be  
21 stamped with a publication ban. It's document 121730.  
22 There's the name of an alleged victim in the document.

23 **THE COMMISSIONER:** M'hm. Thank you.

24 Exhibit Number 3365. These are notes - do  
25 you know whose notes they are?

1                   **MS. HAMOU:** Perhaps Ms. Birrell can inform  
2                   you?

3                   **THE COMMISSIONER:** Yes, just ---

4                   **MS. BIRRELL:** The handwritten notes that we  
5                   will be introducing as exhibits are all authored by  
6                   Carolina Willsher.

7                   **THE COMMISSIONER:** All right, thank you.

8                   So these are notes from Carolina Willsher  
9                   and the first date on it is the 21<sup>st</sup> of January, 1997.

10                  --- **EXHIBIT NO./PIÈCE NO. P-3365:**

11                               (121730) Handwritten notes from Carolina  
12                               Willsher re: Marcel Lalonde dated January  
13                               21, 1997

14                   **MS. HAMOU:** The next document is 121732.

15                   **THE COMMISSIONER:** Thank you.

16                   Exhibit Number 3366 is notes dated January  
17                   27<sup>th</sup>, 1997 from the same person.

18                  --- **EXHIBIT NO./PIÈCE NO. P-3366:**

19                               (121732) Handwritten notes from Carolina  
20                               Willsher re: Marcel Lalonde dated January  
21                               27, 1997

22                   **MS. HAMOU:** The next document is 121733.

23                   **THE COMMISSIONER:** Thank you.

24                   Again, notes -- 3367 is notes and the first  
25                   entry on that note is 27<sup>th</sup> of March, 1997.

1           **--- EXHIBIT NO./PIÈCE NO. P-3367:**

2                           (121733) Handwritten notes from Carolina  
3                           Willsher re: Marcel Lalonde dated March 27,  
4                           1997

5           **MS. HAMOU:** The next document is 121735.

6           **THE COMMISSIONER:** Thank you.

7                           Exhibit 3368, again, is notes dated the 1<sup>st</sup>  
8           of April, 1997.

9           **--- EXHIBIT NO./PIÈCE NO. P-3368:**

10                           (121735) Handwritten notes from Carolina  
11                           Willsher re: Marcel Lalonde dated April 1,  
12                           1997

13           **MS. HAMOU:** The next document is 121737.

14           **THE COMMISSIONER:** Thank you.

15                           Exhibit Number 3369 is notes and the first  
16           date on there is -- noted is 29<sup>th</sup> of April, 1997.

17           **--- EXHIBIT NO./PIÈCE NO. P-3369:**

18                           (121737) Handwritten notes from Carolina  
19                           Willsher re: Marcel Lalonde dated April 29,  
20                           1997

21           **MS. HAMOU:** Next document is 121738.

22           **THE COMMISSIONER:** Exhibit 3370 is an  
23           Information charging Marcel Lalonde and the date of that  
24           information is the 29<sup>th</sup> of April, 1997.

25           **--- EXHIBIT NO./PIÈCE NO. P-3370:**

1 (121738) Information of Brian Snyder dated  
2 April 29, 1997

3 **S. HAMOU:** Next document is 121740.

4 **THE COMMISSIONER:** Thank you.

5 Exhibit 3371 is an information naming Marcel  
6 Lalonde as a defendant and that document doesn't have a  
7 sworn date. Okay, well it will be noted as Document  
8 121740. So that's Exhibit 3371.

9 **--- EXHIBIT NO./PIÈCE NO. P-3371:**

10 (121740) Information of Brian Snyder re:  
11 Marcel Lalonde

12 **MS. HAMOU:** The next document is 121742.

13 **THE COMMISSIONER:** Thank you.

14 Exhibit Number 3372 is another -- is page 2  
15 of an information and it's Document 121742.

16 **--- EXHIBIT NO./PIÈCE NO. P-3372:**

17 (121742) Information of Brian Snyder re:  
18 Marcel Lalonde

19 **MS. HAMOU:** The next document is 121748.

20 **THE COMMISSIONER:** Thank you.

21 Exhibit Number 3373 is, again, notes dated  
22 April 30<sup>th</sup>, 1997.

23 **--- EXHIBIT NO./PIÈCE NO. P-3373:**

24 (121748) Handwritten notes from Carolina  
25 Willsher re: Marcel Lalonde dated April 30,

1 1997

2 **MS. HAMOU:** The next document is 121750.

3 **THE COMMISSIONER:** Thank you.

4 Exhibit Number 3374, notes, with the first  
5 entry being May 1<sup>st</sup>, 1997.

6 --- **EXHIBIT NO./PIÈCE NO. P-3374:**

7 (121750) Handwritten notes of Carolina  
8 Willsher re: Marcel Lalonde dated May 1,  
9 1997

10 **MS. HAMOU:** Next document is 121752.

11 **THE COMMISSIONER:** Thank you.

12 Exhibit Number 3375 is notes taken on May  
13 6<sup>th</sup>, 1997.

14 --- **EXHIBIT NO./PIÈCE NO. P-3375:**

15 (121752) Handwritten notes of Carolina  
16 Willsher re: Marcel Lalonde dated May 6,  
17 1997

18 **MS. HAMOU:** The next document is 121753.

19 **THE COMMISSIONER:** Thank you.

20 These are notes dated May 6<sup>th</sup>, 1997 and will  
21 be known as Exhibit 3376.

22 --- **EXHIBIT NO./PIÈCE NO. P-3376:**

23 (121753) Handwritten notes of Carolina  
24 Willsher re: Marcel Lalonde dated May 6,  
25 1997

1                   **MS. HAMOU:** The next document is 121754.

2                   **THE COMMISSIONER:** Thank you.

3                   These are, again, notes dated May 12<sup>th</sup>, 1997,  
4 Exhibit 3377.

5                   **--- EXHIBIT NO./PIÈCE NO. P-3377:**

6                   (121754) Handwritten notes of Carolina  
7 Willsher re: Marcel Lalonde dated May 12,  
8 1997

9                   **MS. HAMOU:** Next document is 121755.

10                  **THE COMMISSIONER:** Exhibit 3378 is notes  
11 dated June 16<sup>th</sup>, 1997.

12                  **--- EXHIBIT NO./PIÈCE NO. P-3378:**

13                  (121755) Handwritten notes of Carolina  
14 Willsher re: Marcel Lalonde dated June 16,  
15 1997

16                  **MS. HAMOU:** Next document is 121759.

17                  **THE COMMISSIONER:** Exhibit 3379 are  
18 documents -- is a document dated December 9<sup>th</sup>, 1997.

19                  **--- EXHIBIT NO./PIÈCE NO. P-3379:**

20                  (121759) Handwritten notes of Carolina  
21 Willsher re: Marcel Lalonde dated December  
22 9, 1997

23                  **MS. HAMOU:** Next document is 121762.

24                  **THE COMMISSIONER:** Exhibit 3380 is notes,  
25 with the first entry being the 23<sup>rd</sup> of March, 1998.

1           **--- EXHIBIT NO./PIÈCE NO. P-3380:**

2                           (121762) Handwritten notes of Carolina  
3                           Willsher re: Marcel Lalonde dated March 23,  
4                           1998

5           **MS. HAMOU:** Next document is 121764.

6           **THE COMMISSIONER:** Thank you.

7                           Exhibit Number 3381, document dated 26<sup>th</sup> of  
8           March, 1998.

9           **--- EXHIBIT NO./PIÈCE NO. P-3381:**

10                           (121764) Handwritten notes of Carolina  
11                           Willsher re: Marcel Lalonde dated March 26,  
12                           1998

13           **MS. HAMOU:** Next document is 121765.

14           **THE COMMISSIONER:** Exhibit 3382, notes dated  
15           May 6<sup>th</sup>, 1998.

16           **--- EXHIBIT NO./PIÈCE NO. P-3382:**

17                           (121765) Handwritten notes of Carolina  
18                           Willsher re: Marcel Lalonde dated May 6,  
19                           1998 and February 15, 1999

20           **MS. HAMOU:** Next document is 200349.

21           **THE COMMISSIONER:** Exhibit 3383 is a  
22           document entitled "Decision Summary, The Ontario College of  
23           Teachers".

24           **--- EXHIBIT NO./PIÈCE NO. P-3383:**

25                           (200349) Decision Summary - The Ontario

1 College of Teachers re: Marcel Lalonde dated  
2 June, 2002

3 **MS. HAMOU:** The next document is 200351.

4 **THE COMMISSIONER:** Thank you.

5 Exhibit Number 3384 is a Certificate of  
6 Qualification for Gilf Greggain dated -- I really don't see  
7 a date on this document but in any event, there's enough to  
8 identify it.

9 **--- EXHIBIT NO./PIÈCE NO. P-3384:**

10 (200351) Certificate of Qualification re:  
11 Gilf Greggain, undated

12 **MS. HAMOU:** The next document is 200352.

13 **THE COMMISSIONER:** All right. So Exhibit  
14 3385 is a report on attendance. It's dated January 6<sup>th</sup>,  
15 1971.

16 **--- EXHIBIT NO./PIÈCE NO. P-3385:**

17 (200352) Cover Page of Register of Daily  
18 Attendance

19 **S. HAMOU:** Next document is 200353.

20 **HE COMMISSIONER:** Thank you.

21 Exhibit Number 3386, again, is a Report on  
22 Attendance and it's dated January 26<sup>th</sup>, 1970

23 **--- EXHIBIT NO./PIÈCE NO. P-3386:**

24 (200353) Report on Attendance re: Gilf  
25 Greggain dated January 26, 1970

1                   **MS. HAMOU:** Next document is 200354.

2                   **THE COMMISSIONER:** Thank you.

3                   Exhibit Number 3387 is a Daily Attendance  
4 Sheet.

5                   **--- EXHIBIT NO./PIÈCE NO. P-3387:**

6                   (200354) Daily Attendance Record re: Gilf  
7 Greggain, September, 1966

8                   **MS. HAMOU:** Next document is 200355.

9                   **THE COMMISSIONER:** Thank you.

10                   Exhibit Number 3388, again, is a Daily  
11 Attendance Sheet.

12                   **--- EXHIBIT NO./PIÈCE NO. P-3388:**

13                   (200355) Daily Attendance Record re: Gilf  
14 Greggain, September, 1967

15                   **MS. HAMOU:** Next document is 200356.

16                   **THE COMMISSIONER:** Exhibit 3389 is another  
17 Attendance Sheet.

18                   **--- EXHIBIT NO./PIÈCE NO. P-3389:**

19                   (200356) Daily Attendance Record re: Gilf  
20 Greggain, September, 1968

21                   **MS. HAMOU:** The next exhibit should be  
22 200358.

23                   **THE COMMISSIONER:** Thank you.

24                   Exhibit 3390 is another Daily Attendance  
25 Sheet.

1           **--- EXHIBIT NO./PIÈCE NO. P-3390:**

2                           (200358) Daily Attendance Record re: Gilf  
3                           Greggain, September, 1969

4           **MS. HAMOU:** Next document is 734625, and can  
5 we stamp that with a publican ban, please?

6           **THE COMMISSIONER:** Thank you.

7                           Exhibit 3391 is a document from the Catholic  
8                           District School Board of Eastern Ontario dated April 2,  
9                           1998.

10          **--- EXHIBIT NO./PIÈCE NO. P-3391:**

11                           (734625) Letter from Carole Flaro to René  
12                           Derosiers re: Information from Bishop  
13                           Macdonell School's Registers dated April 2,  
14                           1998

15          **MS. HAMOU:** And the final document is  
16                           735778.

17          **THE COMMISSIONER:** Thank you very much.

18                           Exhibit 3392 is a document, a facsimile  
19                           transmittal, to Carol Flaro from Jeff Carroll of the  
20                           Cornwall Community Police Service dated the 28th of March,  
21                           2001.

22          **--- EXHIBIT NO./PIÈCE NO. P-3392**

23                           (735778) Fax from Jeff Carroll to Carol  
24                           Flaro re: School Records - Marc Latour dated  
25                           March 28, 2001

1                   **MS. HAMOU:** So Mr. Commissioner, I'll pass  
2 the microphone to Jennifer Birrell ---

3                   **THE COMMISSIONER:** Thank you very much.

4                   **MS. HAMOU:** --- to take over.

5                   **THE COMMISSIONER:** Good morning to you.

6                   **MS. BIRRELL:** Good morning, Mr.  
7 Commissioner.

8                   I'm here to present the Factual Overview of  
9 the Catholic District School Board of Eastern Ontario.

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

11                  **MS. BIRRELL:** This Factual Overview  
12 addresses historical information concerning former  
13 employees and students of the Catholic District School  
14 Board of Eastern Ontario -- which I will refer to from  
15 time-to-time as the CDSBEO ---

16                  **THE COMMISSIONER:** Yes.

17                  **MS. BIRRELL:** --- as well as its  
18 predecessor, the English section of the former Stormont,  
19 Dundas and Glengarry County Roman Catholic Separate School  
20 Board and the institutional responses to allegations of  
21 historical abuse as contained in the CDSBEO files and  
22 school board records.

23                  All school board documents referenced in  
24 this Factual Overview were submitted to the Cornwall Public  
25 Inquiry pursuant to a summons to witness issued by you to

1 Board representatives on November 9<sup>th</sup>, 2006.

2 With respect to employees, I will start by  
3 speaking to Marcel Lalonde.

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

5 **--- FACTUAL OVERVIEW SUBMITTED BY/SURVOL DES FAITS PRÉSENTÉE**  
6 **PAR MS. BIRRELL:**

7 **MS. BIRRELL:** "On June 24<sup>th</sup>, 1969, the  
8 Minister of Education granted Marcel Lalonde an interim  
9 elementary school teaching certificate standard I valid  
10 until June 30<sup>th</sup>, 1971. A permanent elementary school  
11 teacher's certificate was thereafter issued on June 25<sup>th</sup>,  
12 1971."

13 And the reference is Exhibits 3359 as well  
14 as 3358.

15 "Marcel Lalonde began his teaching career  
16 with the Stormont, Dundas and Glengarry County Roman  
17 Catholic School Board which may be referred to from time-  
18 to-time as the SD&G Separate School Board and he began on  
19 September 1<sup>st</sup>, 1969.

20 From 1969 until August of 1987, Mr. Lalonde  
21 was assigned to be an intermediate section of the Bishop  
22 Macdonell Separate School."

23 And that reference is Exhibit 3360.

24 "By way of letter dated June 2<sup>nd</sup>, 1987,  
25 Marcel Lalonde was assigned to Sacred Heart School for the

1 1987-88 school year. He remained at Sacred Heart until  
2 1997."

3 And the references to that paragraph are  
4 Exhibit 3354 as well as 3360.

5 "Following a request from Mr. Lalonde by way  
6 of letter dated September 10<sup>th</sup>, 1997, the Board provided Mr.  
7 Lalonde with a list of school years and grade levels at  
8 which he taught at Bishop Macdonell and his change of  
9 addresses which he had provided to the Board during the  
10 years 1969 to 1994."

11 And the reference for those is Exhibits  
12 3357, 3351 and 3352.

13 "In December 1996, the police contacted a  
14 Superintendent of Education, Bunny Warner, to request  
15 confirmation of Marcel Lalonde's teaching status and  
16 confirmation of former students at the Board. Mr. Warner  
17 cooperated with the police and confirmed the information  
18 requested."

19 And the reference to that is Exhibit 3362  
20 which is the handwritten notes from Carolina Willsher, the  
21 Director of Human Resources.

22 "On January 6<sup>th</sup>, 1996, the OPP contacted  
23 Bunny Warner to advise that Marcel Lalonde would be charged  
24 at 7:15 a.m. on January 7<sup>th</sup>, 1997 for indecent assault  
25 against a minor, contrary to the 1972 *Criminal Code*."

1 And the reference to that is Exhibit 3362  
2 and in particular Bates page number 1133713 in the  
3 handwritten notes from Ms. Willsher.

4 **THE COMMISSIONER:** No, go ahead.

5 "The alleged incident was said to have  
6 occurred at a campground in Charlottenburg. Although the  
7 alleged victim was a student, it was not a school-sponsored  
8 activity."

9 And the reference to that is, again, the  
10 handwritten notes of Carolina Willsher in Exhibit 3362.

11 "At the time, Marcel Lalonde had no criminal  
12 record and had not been convicted of a criminal offence."

13 And that is referenced in Exhibit 3336.

14 "Marcel Lalonde was arrested and did not  
15 report for work on January 7<sup>th</sup>, 1997. That day, Bunny  
16 Warner spoke with Marcel Lalonde by telephone and advised  
17 the Board was considering various options, including  
18 suspension. Lalonde was further advised not to report for  
19 work until further notice."

20 And the reference to that is Ms. Willsher's  
21 handwritten notes as Exhibit 3362.

22 "On January 8<sup>th</sup>, 1997, Carolina Willsher --  
23 who's also referred to as Lina -- the then Manager of Human  
24 Resources for the SD&G Separate School Board, contacted  
25 Marcel Lalonde to advise that the Board would be meeting

1 with him at 9:30 a.m. on January 9<sup>th</sup>, 1997.

2 Mr. Lalonde was advised that he could bring  
3 his certified bargaining agent, the Ontario English  
4 Catholic Teachers Association -- also referred to as OEETA  
5 -- with him to the meeting and that a letter would be  
6 issued.

7 He was subsequently advised that the letter  
8 would state that he was relieved of his teaching duties."

9 And that reference is Exhibit 3362, the  
10 handwritten notes of Ms. Willsher.

11 "Bunny Warner and Ms. Willsher met with  
12 Marcel Lalonde and his elected representative on January  
13 9<sup>th</sup>, 1997 at 9:30 a.m. At that time, Marcel Lalonde was  
14 issued a letter dated January 9<sup>th</sup>, 1997 whereby he was  
15 advised that he was relieved of his teaching duties.

16 He was further told that he would be advised  
17 of any additional steps the Board may take once the Board  
18 had an opportunity to review and consider the matter. The  
19 Board did not discontinue his pay at that time.

20 The Board requested the copies of the  
21 charges for Mr. Lalonde. He indicated that he was not sure  
22 if he had copies of the charges. He was also uncertain as  
23 to what he could say to the Board about the charges at that  
24 time, but indicated that the alleged incident happened 23  
25 years ago, and there was also a discussion about next

1            steps."

2                            And the reference to that is in the  
3            handwritten notes of Ms. Willsher in Exhibit 3364, as well  
4            as the letter from Kevin Lydon, the Acting Director of  
5            Education, to Marcel Lalonde, which is Exhibit 3361.

6                            "On January 9<sup>th</sup>, 1997 at 15:18 hours,  
7            Detective Constable Genier of the OPP faxed the Board a  
8            copy of the charges. The charges confirmed that the  
9            allegations concerned events of July, 1973 in the  
10           Charlottenburg campground."

11                           And that reference is a fax from the OPP as  
12           Exhibit 3363.

13                           "On January 21<sup>st</sup>, 1997, Detective Constable  
14           Genier contacted Bunny Warner to advise that there were  
15           other allegations pending."

16                           And that reference is the notes of Ms.  
17           Willsher which are contained in Exhibit 3365.

18                           "A further meeting was held between the  
19           Board, Marcel Lalonde and his elected representatives on  
20           January 27<sup>th</sup>, 1997. At that meeting, Marcel Lalonde was  
21           asked of the nature of the charges and any explanations he  
22           may have for the charges.

23                           Marcel Lalonde's union representative  
24           advised that on the advice of counsel, she would be doing  
25           most of the talking and Marcel could not answer those

1            questions.

2                            The Board was, however, advised that the  
3 charge was indecent assault and that Lalonde denied the  
4 allegations.

5                            During the meeting, Marcel Lalonde requested  
6 a re-assignment within the Board. This request was not  
7 granted by the Board."

8                            And that reference is Ms. Willsher's  
9 handwritten notes, Exhibit 3366.

10                           "In 1997, the Board had various  
11 communications with Detective Constable Genier of the OPP  
12 concerning the criminal proceedings and procedural issues."

13                           And that is contained in a series of notes  
14 written by Ms. Willsher noted as Exhibits 3366, 3367 and  
15 3368.

16                           "On April 1<sup>st</sup>, 1997, Lina Willsher spoke with  
17 Constable Genier who advised of the possibility of further  
18 charges and referred her to Sergeant Brian Snyder of the  
19 Cornwall Police Services.

20                           Ms. Willsher subsequently spoke with  
21 Sergeant Snyder and asked if she could know whether the  
22 allegations concerned former students and to be advised  
23 when the charges were laid. Sergeant Snyder agreed to keep  
24 the Board advised."

25                           And that is contained in Ms. Willsher's

1 handwritten notes noted as Exhibit 3368.

2 "On April 29<sup>th</sup>, 1997 at 4:26 p.m., Sergeant  
3 Snyder contacted Lina Willsher to advise that Mr. Lalonde  
4 was arrested and charged with 16 counts of sexual assault  
5 and was being held on bail."

6 And that is contained in Ms. Willsher's  
7 handwritten notes as Exhibit 3369.

8 "On April 30<sup>th</sup>, 1997 a further meeting was  
9 held between Kevin Lydon, Lina Willsher and Marcel  
10 Lalonde's union representative to discuss the new charges."

11 And those are contained in handwritten notes  
12 from Ms. Willsher as Exhibit 3373.

13 "In a further discussion with Mr. Snyder on  
14 May 1<sup>st</sup>, 1997, Ms. Willsher requested copies of the charges  
15 against Mr. Lalonde. Mr. Snyder advised that because of  
16 the Freedom of Information, he could not fax copies of the  
17 charges to Ms. Willsher, however, she could attend the  
18 courthouses to obtain copies with the names of the victims  
19 blacked out -- blanked out.

20 The Board did arrange for an employee to  
21 attend the courthouse on May 1<sup>st</sup>, 1997 and attained the  
22 charges.

23 The names of the alleged victims were  
24 blacked out."

25 And that is contained in the handwritten

1 notes from Ms. Willsher in Exhibit 3374, and the  
2 information that they obtained from the courthouse was  
3 found in a series of documents. They've been separated  
4 into separate exhibits, but they were all contained in  
5 33703371.

6 "On May 1<sup>st</sup>, 1997, Bunny Warner and Lina  
7 Willsher met with Marcel Lalonde and his union  
8 representative to discuss the new charges. His union  
9 representative stated that on the advice of his lawyer,  
10 Marcel Lalonde would not be able to answer the Board's  
11 questions."

12 And that's contained in Ms. Willsher's notes  
13 in Exhibits 3375 and 3376.

14 "In 1997 and 1998, the Board was in contact  
15 with the Cornwall Police Services to discuss updates on the  
16 file, court dates, and other procedural issues concerning  
17 the proceedings. The Board also cooperated in the  
18 provision of further information as requested by the  
19 police."

20 And those are contained -- those discussions  
21 are referenced in Ms. Willsher's notes as contained in  
22 Exhibits 3369, 3377, 3379, 3378, 3380, 3381 and 3382.

23 There is also a letter from Carole Flaro to  
24 Constable Desrosiers of the Cornwall Police, as Exhibit  
25 3391, where further information was provided.

1 "On March 23<sup>rd</sup>, 1998, the Board also made  
2 efforts to contact the Crown Attorney assigned to the  
3 Marcel Lalonde file."

4 And that is contained in Ms. Willsher's  
5 handwritten notes as Exhibit 3380.

6 "As a result of the *Fewer School Boards Act*,  
7 Marcel Lalonde was advised that effective January 1, 1998,  
8 he would be transferred to the Conseil des Écoles séparées  
9 de langue française numéro 66, now the Conseil scolaire du  
10 district catholique de l'Est de l'Ontario, as an interim  
11 measure. And it was recommended that he become an employee  
12 of the English Language Roman Catholic District School  
13 Board Number 52, now known as the CDSBEO, on or before  
14 August of '98."

15 And that is referenced in a document from  
16 Ms. Willsher to Mr. Lalonde, which encloses a further  
17 letter from Mr. Davidson, the Director of Education, and  
18 those two documents are 3356 and Exhibit 3355.

19 "By way of a letter dated October 27<sup>th</sup>, 2000,  
20 Marcel Lalonde submitted his resignation from his  
21 employment with the Board, effective September 20<sup>th</sup>, 2001.  
22 His resignation was accepted at the Board meeting of the  
23 Catholic District School Board of Eastern Ontario on  
24 November 21st, 2000."

25 And that letter of resignation is Exhibit

1 3348, and the letter confirming acceptance of the  
2 resignation is Exhibit 3350.

3 "Following news reports of Mr. Marcel  
4 Lalonde's conviction, the Catholic District School Board of  
5 Eastern Ontario advised the Registrar and Chief Executive  
6 Officer of the Ontario College of Teachers by way of a  
7 letter dated November 28, 2000."

8 Which is Exhibit 3349.

9 "The Investigations and Hearings Department  
10 of the Ontario College of Teachers wrote to the Board  
11 requesting names and addresses of the alleged victims.

12 By way of letter dated June 13<sup>th</sup>, 2001, the  
13 Board advised that these individuals came forward as a  
14 result of the police investigation and 'did not present  
15 themselves to our Board'."

16 And that is the letter which is Exhibit  
17 3353.

18 "On February 5<sup>th</sup>, 2002, a panel of the  
19 Discipline Committee found Marcel Lalonde guilty of  
20 professional misconduct. His certificate of qualification  
21 and certificate of registration was revoked."

22 And that decision is a public document which  
23 is available on the internet, and is noted as Exhibit 3383.

24 I would now like to turn to another employee  
25 by the name of Gilf Greggain.

1 THE COMMISSIONER: M'hm.

2 MS. BIRRELL: "Mr. Greggain received his  
3 Ontario Teaching Certificate on June 23<sup>rd</sup>, 1967. In 1997,  
4 on the establishment of the Ontario College of Teachers, he  
5 was issued a certificate of qualification. His certificate  
6 remained in good standing until April 30<sup>th</sup>, 2003, at which  
7 time it was suspended for non-payment of fees."

8 And that certificate is Exhibit 3384.

9 "Gulf Greggain was hired as a probationary  
10 teacher with the former SD&G Separate School Board and  
11 commenced his teaching duties in October of 1967. He was  
12 assigned to St. Peter's School and worked for principal  
13 Percy Beaudette."

14 That information is referenced in a  
15 teacher's control sheet at Exhibit 3347; the probationary  
16 teacher's contract, 3341; and his resume, which is Exhibit  
17 3340.

18 "Mr. Greggain continued to work at  
19 St. Peter's School as a probationary employee until  
20 September, 1969 when he achieved permanent status. In  
21 1971, he transferred to St. Anne's."

22 And that is noted in a Board document which  
23 is Exhibit 3347.

24 "In September, 1987, Mr. Greggain took a  
25 leave of absence from his position at the Board and by way

1            of letter dated July, 4<sup>th</sup>, 1988, Mr. Greggain submitted his  
2            letter of resignation effective June 30<sup>th</sup>, 1988. On July  
3            4<sup>th</sup>, 1998, the SD&G Separate School Board accepted Mr.  
4            Greggain's resignation."

5                            And his letter is Exhibit 3343. The letter  
6            confirming acceptance is Exhibit 3342. It's also noted in  
7            his resume as Exhibit 3340, and the teacher's salary  
8            control sheet at 3347.

9                            "In October of 1997, Mr. Greggain was  
10           rehired by the SD&G Separate School Board under a  
11           probationary contract effective October 10<sup>th</sup>, 1997."

12                           And that is confirmed in a letter from  
13           Ms. Willsher to Mr. Greggain dated October 9<sup>th</sup>, 1997, as  
14           Exhibit 3339.

15                           "On January 1, '98, Mr. Greggain transferred  
16           to the Conseil des districts des Écoles catholiques de  
17           langue française de l'Est de l'Ontario, and on October --  
18           April 1<sup>st</sup>, 1998, his employment was then transferred to the  
19           CDSBEO."

20                           And that's confirmed in some correspondence  
21           as Exhibits 3344 and 3345.

22                           "Mr. Greggain took sick leave on  
23           January 22<sup>nd</sup>, 2001. He did not return to the Board."

24                           And that is referenced in the email document  
25           from Ms. Renaud as Exhibit 3346, as well as a sick leave

1 certificate which my friend, Mr. Lee, asked that it be  
2 included as Exhibit 3338.

3 "On April 30<sup>th</sup>, 2003, Mr. Greggain's  
4 certificate of qualification was suspended for non-payment  
5 of fees."

6 Which I've noted is in Exhibit 3384.

7 That addresses the Board's files with  
8 respect to Mr. Greggain.

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

10 **MS. BIRRELL:** I would like to turn now to a  
11 couple of other individuals.

12 **MS. BIRRELL:** "With respect to Lucien  
13 Labelle, we note that Lucien Labelle was not employed by  
14 the CDSBEO or the former English section of the former  
15 Stormont, Dundas and Glengarry County Roman Catholic  
16 Separate School Board. The CDSBEO has no employee files  
17 for Mr. Labelle."

18 **MS. BIRRELL:** "Nelson Barque was not  
19 employed by the CDSBEO or the former English section of the  
20 former SD&G Separate School Board. The CDSBEO has no  
21 employee files for Mr. Barque."

22 We note that all employee files concerning  
23 the French section of the former SD&G Separate School Board  
24 were transferred to the Conseil scolaire du district  
25 catholique de l'Est de l'Ontario."

1                    That completes my presentation with respect  
2                    to the employees.

3                    I would like to now move to some alleged  
4                    victims.

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

6                    **MS. BIRRELL:**    I would like to start with Mr.  
7                    Marc Latour ---

8                    **THE COMMISSIONER:**    Yes.

9                    **MS. BIRRELL:**    --- and speak to some of the  
10                    Board records concerning Mr. Latour.

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

12                    **MS. BIRRELL:**    "From 1964 to 1971, Marc  
13                    Latour was registered as a student at St. Peter's Catholic  
14                    School."

15                    That's noted on his student record which is  
16                    Exhibit 369.

17                    "Marc Latour was registered in  
18                    Ms. Gosselin's grade two class for the 1966-'67 school  
19                    year."

20                    And that's contained in daily registers for  
21                    1966 as Exhibit 3387.

22                    "Marc Latour was registered in Mr. Gilf  
23                    Greggain's grade three class for the '67-'68 school year."

24                    That is referenced in a daily register for  
25                    '67 as Exhibit 3388.

1 "Mr. Latour was also registered in  
2 Ms. Gosselin's grade four class through the '68-'69 school  
3 year."

4 And that is contained in Exhibit 3390.

5 "For the school year '68-'69 and 1969-'70,  
6 Ms. Arice Gosselin taught grade four at St. Peter's  
7 School."

8 And we reference Exhibits 3389 and 3390.

9 "Percy Beaudette was the principal of  
10 St. Peter's from September, 1967 until June, 1970.

11 Charles Beaudette became the principal of  
12 St. Peter's in September of 1970."

13 And we've referred to two reports on  
14 attendance submitted by these principals as Exhibits 3386  
15 and 3385.

16 "Marc Latour was registered in  
17 Mr. Greggain's grade six class through the 1970-'71 school  
18 year."

19 And we look to Exhibit 369.

20 "On March 28th, 2001, Cornwall Police  
21 Services requested information concerning Marc Latour's  
22 grade and teacher assignments while Marc Latour attended  
23 St. Peter's School. This request included Mr. Latour's  
24 consent and authorization for disclosure."

25 And that was the fax to Ms. Carole Flaro in

1            Exhibit 3392.

2                            "By way of letter dated May 9<sup>th</sup>, 2001, the  
3            CDSBEO confirmed that Marc Latour's name appeared in the  
4            daily registers for elementary schools at St. Peter's  
5            School, in Room 5, in September 1967, and the teacher's  
6            name was Mr. Greggain."

7                            And that is in Exhibit 1681.

8                            And that concludes our presentation with  
9            respect to alleged victims. We'd just like to conclude  
10           with reference to clarification as to some of the schools  
11           which may or may not have been within the Board.

12                           We note St. Lawrence High School is not a  
13           school within the CDSBEO or the SD&G Separate School Board,  
14           and Marie Tanguay is not a school within the CDSBEO or the  
15           former English section of the SD&G Separate School Board.

16                           That concludes the factual review. Thank  
17           you very much.

18                           **THE COMMISSIONER:** Thank you.

19                           **MS. HAMOU:** Mr. Commissioner, I understand  
20           you'll be continuing with Jean-Paul Scott. Perhaps we  
21           should continue right now?

22                           **Me DUMAIS:** Je suis prêt à procéder,  
23           Monsieur le commissaire. Merci.

24                           **LE COMMISSAIRE:** Très bien. Merci.

25                           Est-ce que la preuve sera présentée en

1 français ou en anglais?

2 **Me DUMAIS:** La preuve va être présentée en  
3 français, Monsieur le commissaire.

4 **THE COMMISSIONER:** Ladies and gentlemen, you  
5 might want to take advantage of the headphones. Oh, you  
6 already have.

7 **Me DUMAIS:** Si on peut appeler à la barre  
8 aux témoins monsieur Jean-Paul Scott?

9 **LE COMMISSAIRE:** Parfait. Merci.

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

11 **LE COMMISSAIRE:** Est-ce que Monsieur Scott a  
12 besoin des ---

13 **Me DUMAIS:** Non.

14 **LE COMMISSAIRE:** Monsieur Scott -- ah, ça  
15 c'est Monsieur Scott. O.k. Parfait.  
16 Bonjour.

17 **JEAN-PAUL SCOTT, Sworn/Assermenté:**

18 **LE COMMISSAIRE:** Merci.

19 Bonjour, Monsieur Scott.

20 **M. SCOTT:** Bonjour.

21 **LE COMMISSAIRE:** Nous avons des verres et de  
22 l'eau fraîche si vous voulez en avoir.

23 J'aimerais que vous parliez dans le  
24 microphone pour qu'on puisse vous entendre complètement.

25 Maintenant, les avocats ont tendance à

1 demander des longues questions et puis si vous avez de la  
2 difficulté à comprendre, faites tout simplement nous  
3 demander de le répéter.

4 J'exclus, comme de raison, Maître Dumais de  
5 ces choses-là.

6 **Me DUMAIS:** Merci.

7 **LE COMMISSAIRE:** En tous les cas, on va  
8 peut-être vous montrer des documents, puis soit on va vous  
9 les montrer en direct de même ou bien avec l'écran.

10 Maintenant vous êtes en train d'ouvrir votre

11 ---

12 **M. SCOTT:** Mes lunettes.

13 **LE COMMISSAIRE:** Ah, vos lunettes. Bravo.  
14 Correct.

15 Donc, si jamais vous désirez avoir une  
16 pause, faites tout simplement me le dire et puis on tentera  
17 de vous accommoder. Parfait?

18 **M. SCOTT:** D'accord.

19 **LE COMMISSAIRE:** Merci beaucoup.

20 Et vous devez articuler une réponse pour  
21 qu'on puisse tous l'enregistrer.

22 Merci beaucoup.

23 Maître Dumais.

24 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR Me**  
25 **DUMAIS:**

1                   **Me DUMAIS:** Alors, Monsieur Scott, je  
2                   comprends que vous avez eu une longue carrière dans le  
3                   domaine de l'éducation. De fait, vous avez travaillé  
4                   pendant 37 ans dans le domaine?

5                   **M. SCOTT:** Oui, c'est ça.

6                   **Me DUMAIS:** Et puis si je peux prendre  
7                   quelque minutes, juste faire un survol de votre  
8                   implication, vous avez débuté comme enseignant dans l'École  
9                   secondaire Eastview?

10                  **M. SCOTT:** J'ai débuté avant ça, mais ---

11                  **Me DUMAIS:** Votre premier poste comme  
12                  enseignant c'était à quelle école?

13                  **M. SCOTT:** C'était l'école Hervé Bériault à  
14                  Vanier en 1957.

15                  **Me DUMAIS:** À un certain moment donné, vous  
16                  avez débuté votre enseignement à l'École secondaire  
17                  Eastview?

18                  **M. SCOTT:** Oui.

19                  **Me DUMAIS:** Et puis je comprends qu'à un  
20                  certain moment donné vous êtes devenu un principal pour  
21                  l'École Cumberland; c'est ça?

22                  **M. SCOTT:** L'École Notre-Dame-du-Cap de  
23                  Cumberland, oui.

24                  **Me DUMAIS:** O.k. Merci.

25                  Et puis à un certain moment donné vous avez

1 transféré. Vous étiez chargé du département d'histoire de  
2 l'École Confédération à Welland?

3 **M. SCOTT:** Exact.

4 **Me DUMAIS:** Et puis ensuite, vous avez  
5 changé de position de nouveau. Vous étiez le principal de  
6 l'École secondaire de Plantagenêt de 1970 à 1972?

7 **M. SCOTT:** C'est ça.

8 **Me DUMAIS:** Et puis ensuite, en septembre de  
9 1972, vous avez été promu à la position de surintendant  
10 d'éducation du Conseil des écoles du district de Upper  
11 Canada?

12 **M. SCOTT:** Oui. À ce moment-là c'était  
13 Stormont, Dundas et Glengarry.

14 **Me DUMAIS:** Le nom a changé à un certain  
15 moment donné?

16 **M. SCOTT:** C'est ça.

17 **Me DUMAIS:** Et puis vous avez occupé ce  
18 poste de 1972 jusqu'en août 1980?

19 **M. SCOTT:** Oui.

20 **Me DUMAIS:** Et puis en 1980, vous avez été  
21 promu comme directeur d'éducation du Conseil des écoles  
22 séparées de Prescott-Russell?

23 **M. SCOTT:** Exactement.

24 **Me DUMAIS:** Vous avez occupé ce poste-là  
25 jusqu'en 1994 et puis à ce moment-là vous avez pris votre

1           retraite?

2                           **M. SCOTT:** C'est ça.

3                           **Me DUMAIS:** Je vais -- la plupart de mes  
4 questions vont porter aujourd'hui sur les événements qui  
5 ont eu lieu quand vous étiez surintendant des écoles.

6                           Donc, si je peux débiter en vous demandant  
7 de juste nous donner un aperçu du Conseil des écoles du  
8 district de Upper Canada. Quand vous étiez surintendant,  
9 combien d'écoles étaient sous votre tutelle à ce moment-là?

10                           **M. SCOTT:** J'avais au moins deux écoles  
11 secondaires, Tagwi et puis La Citadelle et puis peut-être  
12 sept ou huit écoles élémentaires.

13                           **Me DUMAIS:** O.k.

14                           **M. SCOTT:** Maintenant, d'après mes  
15 responsabilités, surtout en histoire, je pouvais aller dans  
16 presque toutes les écoles.

17                           **Me DUMAIS:** Ça faisait partie de vos  
18 fonctions?

19                           **M. SCOTT:** C'est ça.

20                           **Me DUMAIS:** Donc, en tant que surintendant,  
21 vous ne restiez pas au Conseil comme tel. Vous circuliez  
22 dans les différentes écoles?

23                           **M. SCOTT:** Surtout.

24                           **Me DUMAIS:** Et puis une de vos  
25 responsabilités c'était de rencontrer vos professeurs,

1 avoir certaines discussions avec eux également?

2 M. SCOTT: Oui.

3 Me DUMAIS: O.k. Et puis comme surintendant  
4 des écoles, vous vous rapportiez au directeur d'éducation;  
5 c'est bien ça?

6 M. SCOTT: Oui, qui était Monsieur Léger.

7 Me DUMAIS: Est-ce que Monsieur Léger a été  
8 directeur d'éducation durant votre mandat au complet?

9 M. SCOTT: La première année, c'était  
10 monsieur Harvey Shaw. Ensuite ça a été Monsieur Léger  
11 jusqu'en 1980.

12 Me DUMAIS: O.k. Donc, de 1973 à 1980?

13 M. SCOTT: Oui.

14 Me DUMAIS: Et puis les principales ou les  
15 directeurs/directrices des différentes écoles dans votre  
16 Conseil se rapportaient directement à vous?

17 M. SCOTT: Oui.

18 Me DUMAIS: Et puis en tant que surintendant  
19 des écoles, est-ce que vous aviez un rôle à jouer dans  
20 l'embauche de vos professeurs?

21 M. SCOTT: Oui, oui.

22 Me DUMAIS: Est-ce que vous pouvez juste  
23 nous donner un bref aperçu, qu'est-ce qui était le  
24 processus d'embauche?

25 M. SCOTT: Bien, j'étais responsable du

1           personnel au palier secondaire. Alors, je planifiais les  
2           annonces. Ensuite les embauches se faisaient soit par le  
3           directeur ou d'autres surintendants ou, dans le cas de mes  
4           écoles, le directeur et puis je pouvais être impliqué moi  
5           aussi.

6                       **Me DUMAIS:** O.k. Parfois vous étiez là;  
7           parfois vous n'étiez pas là?

8                       **M. SCOTT:** C'est ça.

9                       **Me DUMAIS:** O.k. Et puis si je comprends  
10          bien, quand un nouveau professeur était offert un poste, ce  
11          n'était pas un poste en permanence. Donc, il devait subir  
12          une période de probation?

13                      **M. SCOTT:** Dans le cas d'un enseignant qui  
14          commençait, il y avait une période de probation de deux  
15          ans. Si un enseignant avait plus de deux ans d'ancienneté  
16          ou d'expérience, la période de probation était une année.

17                      **Me DUMAIS:** O.k. Et puis si je comprends  
18          bien, si le professeur faisait pas l'affaire pour une  
19          raison ou une autre durant cette période de probation-là,  
20          vous pouviez le renvoyer sans motif?

21                      **M. SCOTT:** Je pouvais recommander au Conseil  
22          de terminer le contrat.

23                      **Me DUMAIS:** O.k.

24                      **M. SCOTT:** Et puis c'est le contrat -- c'est  
25          le Conseil qui acceptait la démission.

1                   **Me DUMAIS:** O.k. Et puis la décision  
2                   ultime, donc, était toujours avec votre Conseil?

3                   **M. SCOTT:** Le Conseil, oui.

4                   **Me DUMAIS:** O.k. Et puis est-ce que vous  
5                   vous souvenez durant ces années-là combien de conseillers  
6                   siégeaient?

7                   **M. SCOTT:** Seize (16) ou 17.

8                   **Me DUMAIS:** O.k.

9                   **M. SCOTT:** Il y en avait une dizaine, je  
10                  pense, d'élus par les contribuables des écoles publiques,  
11                  il y en avait un qui représentait les Affaires indiennes et  
12                  puis six élus par les contribuables des Écoles catholiques.

13                  **Me DUMAIS:** O.k. Et puis est-ce que c'était  
14                  le directeur d'éducation qui se rapportait au Conseil ou  
15                  est-ce que c'était le surintendant?

16                  **M. SCOTT:** Le directeur de l'éducation.

17                  **Me DUMAIS:** O.k. Est-ce que de temps à  
18                  autre, en tant que surintendant des écoles, on vous  
19                  demandait de vous rendre aux réunions du Conseil?

20                  **M. SCOTT:** J'assistais à presque toutes les  
21                  réunions du Conseil.

22                  **Me DUMAIS:** O.k. Et puis est-ce que vous  
23                  aviez une voix à ces réunions-là?

24                  **M. SCOTT:** Je pouvais m'exprimer.

25                  **Me DUMAIS:** O.k. Et puis durant ces années-

1           là, donc entre 1972 et 1980, est-ce que vous êtes au  
2           courant s'il existait un protocole quand il y avait des  
3           allégations contre un de vos professeurs?

4                   **LE COMMISSAIRE:** Pour quelles années? Est-  
5           ce qu'on pourrait préciser?

6                   **Me DUMAIS:** Entre 1972 et 1980, quand il  
7           occupait le poste de surintendant.

8                   **LE COMMISSAIRE:** Bon.

9                   **M. SCOTT:** S'il y avait un protocole pour?

10                   **Me DUMAIS:** S'il y avait une plainte qui  
11           était faite contre un de vos professeurs, soit des  
12           allégations d'abus physique ou des allégations d'abus  
13           sexuel, est-ce qu'il y avait un protocole en place dans  
14           votre Conseil?

15                   **M. SCOTT:** D'habitude, les plaintes ou les  
16           griefs auraient été présentés par la direction de l'école  
17           et puis ensuite on aurait monté soit au directeur  
18           d'éducation ou au Conseil si nécessaire.

19                   **Me DUMAIS:** O.k. Quand vous me dites la  
20           direction de l'école, vous faites référence ici au  
21           principal ou au directeur?

22                   **M. SCOTT:** C'est ça.

23                   **Me DUMAIS:** O.k. Mais est-ce qu'il y avait  
24           un processus écrit à ce moment-là?

25                   **M. SCOTT:** Il y avait évidemment la *Loi sur*

1        *l'éducation* puis les règlements du Ministère. Mais je me  
2        souviens pas d'un protocole spécifique là de la part du  
3        Conseil.

4                    **Me DUMAIS:** O.k. Et puis si un principal  
5        venait vous voir avec une plainte, qu'est-ce qu'était votre  
6        rôle à ce moment-là? Qu'est-ce que vous faisiez avec cette  
7        plainte?

8                    **M. SCOTT:** Il fallait voir d'abord si la  
9        plainte était fondée.

10                   **Me DUMAIS:** O.k.

11                   **M. SCOTT:** Et puis ensuite, dépendant du  
12        contrat de l'enseignant, dans certains cas le contrat  
13        pouvait être terminé, dans le cas d'un enseignant qui  
14        commençait à enseigner, ce qui est arrivé rarement. Et  
15        puis si c'était plus sérieux, il fallait donner suite et  
16        puis faire en sorte que justice soit rendue.

17                   **Me DUMAIS:** O.k. Et puis donc, est-ce que  
18        vous, une de vos responsabilités, ça aurait été d'informer  
19        le directeur de l'éducation?

20                   **M. SCOTT:** Définitivement, oui.

21                   **Me DUMAIS:** O.k. Et puis le directeur  
22        d'éducation à ce moment donné avertirait le Conseil?

23                   **M. SCOTT:** Oui. Dans le cas de terminer le  
24        contrat, par exemple.

25                   **Me DUMAIS:** Et puis s'il y avait des

1        plaintes de nature soit d'abus physique ou soit d'abus  
2        sexuel contre un de vos professeurs, est-ce qu'il y avait  
3        un processus ou un protocole en place pour aviser la  
4        Société de l'aide à l'enfance?

5                    **M. SCOTT:** Disons que ça aurait été très  
6        rare qu'on ait à recourir à la Société de l'aide à  
7        l'enfance ou à la police provinciale, par exemple. En  
8        fait, je me souviens pas que ce soit arrivé pendant que  
9        j'étais surintendant.

10                   **Me DUMAIS:** O.k. Et puis est-ce que vous  
11        vous souvenez d'un incident qui aurait -- qui serait  
12        survenu qui vous aurait porté à rapporter les circonstances  
13        à votre directeur d'éducation durant vos années en tant que  
14        surintendant?

15                   **M. SCOTT:** Le seul cas qui me vient à  
16        l'esprit c'est quand on a recommandé au Conseil d'accepter  
17        la démission d'un enseignant à l'École secondaire La  
18        Citadelle.

19                   **Me DUMAIS:** O.k. Et puis vous parlez ici de  
20        Monsieur Sabourin?

21                   **M. SCOTT:** C'est ça.

22                   **Me DUMAIS:** O.k. En autant que vous  
23        sachiez, c'est le seul incident du genre avec lequel vous  
24        avez traité comme surintendant?

25                   **M. SCOTT:** Oui.

1                   **Me DUMAIS:** O.k. Donc peut-être qu'on peut  
2 regarder plus spécifiquement votre implication dans le  
3 dossier de Monsieur Sabourin. Si je comprends bien,  
4 Monsieur Sabourin était un des enseignants à l'École  
5 secondaire La Citadelle?

6                   **M. SCOTT:** Oui.

7                   **Me DUMAIS:** Et puis cette école, c'était une  
8 école secondaire?

9                   **M. SCOTT:** C'est ça.

10                  **Me DUMAIS:** Et puis c'était bien une école  
11 qui était dans votre Conseil?

12                  **M. SCOTT:** Oui.

13                  **Me DUMAIS:** Et puis si je comprends bien,  
14 Monsieur Sabourin aurait été engagé comme enseignant en  
15 1967?

16                  **M. SCOTT:** Oui, je pense que oui. C'était  
17 avant que moi j'arrive comme surintendant au Conseil des  
18 Écoles publiques de Stormont, Dundas et Glengarry.

19                  **Me DUMAIS:** O.k. Donc, vous avez pas été  
20 impliqué dans sa ---

21                  **M. SCOTT:** L'embauche, non.

22                  **Me DUMAIS:** Et puis, de fait, quand vous  
23 êtes devenu surintendant du Conseil, Monsieur Sabourin  
24 avait alors sa permanence?

25                  **M. SCOTT:** Oui.

1                   **Me DUMAIS:** Et puis si je comprends bien,  
2                   Monsieur Sabourin était un enseignant de français, de  
3                   théâtre et de photographie à l'école?

4                   **M. SCOTT:** Oui, donc théâtre ou arts  
5                   dramatiques, comme vous voulez, mais ---

6                   **Me DUMAIS:** O.k. Et puis vous nous avez  
7                   raconté un peu plus tôt qu'une de vos responsabilités ou un  
8                   de vos rôles en tant que surintendant c'était d'aller à  
9                   différentes -- visiter vos écoles et puis de rencontrer les  
10                  enseignants. Est-ce que vous avez -- vous auriez rencontré  
11                  Monsieur Sabourin là durant une de vos visites?

12                  **M. SCOTT:** Je l'ai rencontré, oui, à  
13                  quelques reprises. D'ailleurs, j'allais très souvent à  
14                  l'École secondaire La Citadelle.

15                  **Me DUMAIS:** O.k. Et puis vous connaissiez  
16                  Monsieur Sabourin?

17                  **M. SCOTT:** Oui.

18                  **Me DUMAIS:** O.k. Et puis lorsque vous étiez  
19                  surintendant du Conseil, la directrice de l'École  
20                  secondaire La Citadelle à ce moment-là était madame  
21                  Jeannine Séguin, c'est bien ça?

22                  **M. SCOTT:** Exactement.

23                  **Me DUMAIS:** O.k. Et puis si je peux porter  
24                  votre attention à un document, Monsieur Scott, et puis je  
25                  crois que c'est un nouveau document -- non, c'est la Pièce

1 justificative 1264. On va vous apporter le document dans  
2 un instant.

3 **LE COMMISSAIRE:** Merci.

4 **M. SCOTT:** Merci.

5 **Me DUMAIS:** Donc, Monsieur Scott, vous  
6 reconnaissez ce document?

7 **M. SCOTT:** Oui.

8 **Me DUMAIS:** Donc, si je comprends bien, en  
9 1996, il y a eu des allégations qui avaient été faites  
10 contre Monsieur Sabourin. Ça a été suivi par une  
11 investigation par la Police communautaire de Cornwall. Et  
12 puis à un certain moment donné, Constable Sebalj vous a  
13 rencontré et vous a demandé de faire une déclaration?

14 **M. SCOTT:** Oui, c'est assez vague là, mais  
15 ça doit être ça, oui.

16 **Me DUMAIS:** O.k. Mais vous vous souvenez  
17 d'avoir rencontré la policière et puis la date de la  
18 déclaration, si je regarde au haut du document à la droite,  
19 c'est le 16 octobre 1997?

20 **M. SCOTT:** Ça doit être ça, oui.

21 **Me DUMAIS:** O.k. Et puis je veux juste  
22 porter votre attention au contenu de votre déclaration. Et  
23 puis je regarde à peu près à partir de la six ou septième  
24 ligne. Puis je vais vous le lire pour que ce soit plus  
25 facile. Vous indiquez ce qui suit:

1 "Puis que je me rendais souvent à cette  
2 école, j'avais l'occasion de rencontrer  
3 les professeurs et Monsieur Sabourin.  
4 Monsieur Sabourin avait quelques petits  
5 locaux à sa disposition, deux ou trois  
6 petits locaux. Je me souviens qu'une  
7 fois il m'avait dit que ses locaux  
8 devaient être verrouillés afin que les  
9 films qu'il développait ne soient pas  
10 endommagés par un excès de lumière."

11 **M. SCOTT:** Oui.

12 **Me DUMAIS:** Donc, pouvez-vous m'expliquer  
13 qu'est-ce que vous étiez en train de dire ici à la  
14 policière?

15 **M. SCOTT:** Monsieur Sabourin m'avait demandé  
16 de voir ses locaux et puis évidemment, par la suite on a su  
17 qu'il s'était passé des choses qui n'auraient pas dû se  
18 passer.

19 **Me DUMAIS:** Oui.

20 **M. SCOTT:** Et puis que la directrice avait  
21 été informée de ceci aussi.

22 **Me DUMAIS:** O.k. Puis on va passer à  
23 travers de toute votre connaissance, de la façon que c'est  
24 sorti dans un moment. Mais ma question plus spécifique ici  
25 c'est pourquoi est-ce que vous portez ce fait-là à

1 l'attention de la policière, le fait qu'il y avait des  
2 locaux et puis c'était verrouillé et puis que vous aviez  
3 noté ça lors d'une de vos visites?

4 **M. SCOTT:** Oui, que Monsieur Sabourin  
5 m'avait indiqué. Il faisait ça, comme vous avez dit, pour  
6 protéger ses fameux films ou ses fameuses photos.

7 **Me DUMAIS:** O.k. Puis donc ça c'est quelque  
8 chose que vous vous souveniez d'une de vos visites entre  
9 1972 et 1976?

10 **M. SCOTT:** Plutôt autour de '74, '75, '76.

11 **Me DUMAIS:** O.k. Vous aviez noté ça lors  
12 d'une de vos visites à l'École secondaire La Citadelle?

13 **M. SCOTT:** Oui. J'en avais parlé,  
14 d'ailleurs, à Mademoiselle Seguin qui, par la suite, a dit  
15 que c'était pas nécessaire de verrouiller les portes parce  
16 que si on gaspillait un film ou deux, c'était pas si grave  
17 que ça.

18 **LE COMMISSAIRE:** Et c'est dans quelle --  
19 Monsieur Scott, dans quelle circonstance est-ce que vous  
20 aviez eu une discussion avec Monsieur Sabourin en ce qui  
21 concernait de verrouiller ses portes?

22 **M. SCOTT:** Bien, je visitais les locaux.

23 **LE COMMISSAIRE:** Oui.

24 **M. SCOTT:** Je visitais -- j'allais voir  
25 Monsieur Sabourin, puis lui m'a amené là et puis m'a montré

1 ce qu'il faisait, les mesures qu'il prenait.

2 **LE COMMISSAIRE:** Bon, o.k.

3 **Me DUMAIS:** O.k. De toute façon, c'est un  
4 fait que vous aviez noté et puis c'est un fait que vous  
5 avez relaté à la policière dans votre déclaration?

6 **M. SCOTT:** Oui.

7 **Me DUMAIS:** Donc, je vous demanderais  
8 maintenant de regarder la Pièce justificative 333.

9 **(SHORT PAUSE/COURTE PAUSE)**

10 **Me DUMAIS:** Donc, Monsieur Scott, vous avez  
11 donné votre déclaration le 16 octobre 1997 à la constable  
12 Heidi Sebalj. Le document que vous avez devant vous c'est  
13 une déclaration que madame Jeannine Seguin aurait donné le  
14 30 octobre 1997, donc à peu près deux semaines après la  
15 vôtre et puis elle relate son implication dans les  
16 allégations qui avaient été faites contre Monsieur  
17 Sabourin.

18 **M. SCOTT:** Oui.

19 **Me DUMAIS:** Donc, si vous pouvez tourner la  
20 déclaration à la deuxième page, donc si vous regardez au  
21 bas de la page, je vais me servir des numéros de la  
22 transcription en bas à droite, page 2. Vous me suivez?

23 **LE COMMISSAIRE:** Pardon, qu'est-ce que vous  
24 dites?

25 **Me DUMAIS:** Vous êtes à la page 2 de la

1 déclaration, Monsieur Scott?

2 **M. SCOTT:** Oui, oui.

3 **Me DUMAIS:** O.k. Donc, on va commencer en  
4 haut de la page, le deuxième paragraphe, à peu près la cinq  
5 ou sixième ligne, et puis je vais vous le lire. Ça c'est  
6 Madame Seguin qui indique comment les allégations lui ont  
7 été faites. Donc, elle indique ce qui suit:

8 "J'ai eu un appel de son épouse qui m'a  
9 dit, 'Madame Seguin, j'aimerais vous  
10 rencontrer.' On -- j'ai dit, 'Pas de  
11 problème.' J'ai dit 'Robert a  
12 malade.'"

13 Et puis si on descend un petit peu plus bas,  
14 à peu près à la mi-page, c'est une phrase qui commence --  
15 il y a un espace avant que la phrase commence et puis ça  
16 commence avec les mots "a dit".

17 **LE COMMISSAIRE:** "... a dit."

18 Madame, vous l'aviez.

19 **Me DUMAIS:** C'est bien là.

20 **LE COMMISSAIRE:** Si vous voyez sur le --  
21 c'est "a dit je viens", c'est ce que tu veux?

22 **Me DUMAIS:** Oui.

23 Vous me suivez, Monsieur Scott?

24 **LE COMMISSAIRE:** Non, non, pas encore.

25 Monsieur Scott, sur la page 2, vous voyez

1 qu'il y a un petit paragraphe et ensuite un plus gros  
2 paragraphe, et puis -- attendez là -- vous pouvez voir ça  
3 commence "a dit je viens vous voir à propos de mon mari".

4 Madame la greffière.

5 (SHORT PAUSE/COURTE PAUSE)

6 LE COMMISSAIRE: "... a dit je viens vous  
7 voir à propos de mon mari".

8 Donc, Madame la greffière, si vous voulez  
9 voir "alors" ---

10 M. SCOTT: Oui, oui, oui.

11 LE COMMISSAIRE: Vous le trouvez là?

12 Parfait. Merci beaucoup.

13 Me DUMAIS: Donc, ça ici c'est Madame Seguin  
14 qui parle pour la conjointe de Monsieur Sabourin et puis  
15 elle indique ce qui suit:

16 "... a dit je viens vous voir à propos de  
17 mon mari pour une raison très majeure.  
18 Je veux vous dire que c'est à cause du  
19 -- des enfants que j'estime de vous  
20 rendre service à la société aujourd'hui  
21 -- plus tard."

22 Et puis je vais poursuivre:

23 "J'écoutais, mais j'ai dit, 'Oui,  
24 qu'est-ce que je peux faire pour vous?'  
25 Puis elle a dit 'Mon mari a eu des --

1 comment a-t-elle dit ça -- les mots  
2 exacts, je me rappelle pas si elle m'a  
3 dit qu'il a eu des relations sexuelles  
4 ou si elle m'a dit qu'il a agressé ou  
5 si elle m'a dit qu'il a agressé ou si  
6 elle m'a dit que c'était clair dans mon  
7 esprit qu'il y avait eu certaines  
8 choses sexuelles."

9 **M. SCOTT:** Oui.

10 **Me DUMAIS:** Donc, ça c'est ce que Madame  
11 Sabourin indique à Madame Seguin; c'est bien ça?

12 **M. SCOTT:** Oui.

13 **Me DUMAIS:** Et puis un peu plus bas aussi --  
14 c'est peut-être pas nécessaire de suivre, Monsieur Scott,  
15 mais je vais simplement vous dire, elle indique également:

16 "Elle m'a dit, 'Je vais te montrer des  
17 photos.' 'Viens,' j'ai dit. J'ai vu  
18 ses photos. Ça me prendrait...a dit  
19 'Je les ai déchirées.'"

20 Donc, elle semble indiquer que Madame  
21 Sabourin, à un certain moment donné, avait vu des photos  
22 qui apparaissent incriminantes ici mais qu'elles avaient  
23 été détruites?

24 **M. SCOTT:** C'est ce que Madame Seguin m'a  
25 dit, oui.

1                   **Me DUMAIS:** O.k.

2                   **M. SCOTT:** Elle m'a dit, évidemment, qu'elle  
3                   avait rencontré Madame Sabourin et qu'il y avait des photos  
4                   qui avaient été détruites.

5                   **Me DUMAIS:** Si vous me permettez, Monsieur  
6                   Scott, on va regarder ce que Madame Seguin vous a dit, par  
7                   après je veux juste essayer d'établir ce que Madame  
8                   Sabourin avait dit à la directrice.

9                   Ensuite, je regarde les trois dernières  
10                  lignes de la page, la phrase qui commence avec "Je sais".

11                  **LE COMMISSAIRE:** C'est vraiment la quatrième  
12                  ligne du bas.

13                  **M. SCOTT:** Oui.

14                  **Me DUMAIS:** "Je sais qu'il va perdre son  
15                  emploi. Je sais que vous allez faire  
16                  ça pour aider la société. J'ai dit,  
17                  'Je suis prête à faire tout, mais ça me  
18                  prend des preuves parce que si j'accuse  
19                  quelqu'un sans preuve, moi je vais être  
20                  accusée par mon association  
21                  professionnelle.'" "

22                  Donc, ça ici c'est Madame Seguin qui parle,  
23                  puis elle semble indiquer à Madame Sabourin que ça lui  
24                  prend des preuves, qu'elle ne peut pas accuser un de ses  
25                  enseignants sans preuve.

1                   Une de ses inquiétudes semble le fait que  
2                   son association professionnelle pourrait la réprimander?

3                   **M. SCOTT:** Bien, s'il était question de  
4                   congédier Monsieur Sabourin, par exemple, il faudrait avoir  
5                   plus que "il semble que". Madame Seguin semblait vouloir  
6                   dire, "Il me faut des preuves réelles, sans quoi moi je  
7                   vais avoir de grandes difficultés par la suite."

8                   **Me DUMAIS:** O.k. Et puis donc, si je  
9                   regarde la troisième page là, Madame Seguin semble indiquer  
10                  qu'elle en aurait parlé à son directeur adjoint?

11                  **M. SCOTT:** Oui.

12                  **Me DUMAIS:** Vous étiez au courant de ça?

13                  **M. SCOTT:** Oui.

14                  **Me DUMAIS:** Et puis ensuite, juste un petit  
15                  peu plus bas que la mi-page, puis je vais vous lire ce  
16                  qu'elle dit:

17                                "Je suis obligée de lui dire, puis je  
18                                vais être obligée de le dire à mon  
19                                surintendant, mon supérieur."

20                  Donc, Madame Seguin semble indiquer à Madame  
21                  Sabourin qu'elle va devoir vous en parler?

22                  **M. SCOTT:** Oui.

23                  **Me DUMAIS:** Parce que vous étiez bien le  
24                  surintendant à ce moment-là?

25                  **M. SCOTT:** Oui.

1                   **Me DUMAIS:** Puis juste un petit peu plus  
2 bas, à peu près trois-quarts de la page, la phrase se lit  
3 comme suit:

4                   "J'ai dit à mon adjoint qu'est ce qui  
5 était arrivé et puis là on ne savait  
6 pas trop quoi faire. (inaudible) On a  
7 regardé dans la loi scolaire. Moi, je  
8 me suis dit ceci, j'ai dit 'La première  
9 chose qu'on doit faire c'est de le  
10 rencontrer mais on ne veut pas le  
11 confronter puis lui dire tu as fait  
12 telle chose.' On n'a pas de preuve."

13                   Ensuite, je suis juste allé un petit peu  
14 plus bas, la huitième ligne du bas, la phrase qui commence  
15 avec les mots "Mais on":

16                   "Mais on ne pouvait pas l'accuser. On  
17 allait le convaincre de démissionner et  
18 de laisser l'enseignant et de laisser  
19 tout contact et qu'il avait besoin de  
20 se faire soigner."

21                   **M. SCOTT:** Il semble bien que Monsieur  
22 Sabourin n'était pas bien. Il était malade peut-être,  
23 dérangé psychologiquement.

24                   **Me DUMAIS:** Puis ensuite, si vous pouvez  
25 simplement tourner à la page 5 de la transcription, c'est à

1           peu près à la mi-page, quelques lignes plus bas. C'est une  
2           phrase qui commence avec les mots "Oui, faut que je vous  
3           dise que dès que je l'ai su".

4                    À peu près à la mi-page Madame la greffière.

5           **M. SCOTT:** "... dès que je l'ai su." Oui.

6           **Me DUMAIS:** Je vais simplement vous le lire,  
7           Monsieur Scott, puis si c'est nécessaire, on va trouver le  
8           passage. Donc, elle indique ce qui suit:

9                            "Oui, faut que je vous dise que dès que  
10                           je l'ai su, j'ai averti mon  
11                           surintendant. J'ai le fait demandé,  
12                           puis c'était lui mon surintendant.  
13                           Alors, j'ai dit, 'Voici j'ai  
14                           l'intention de faire.' Et il dit, 'Fais  
15                           exactement ça.' J'ai dit, 'Je peux pas  
16                           l'accuser. J'ai pas de preuve, puis  
17                           même mieux que ça, il promenait le soir  
18                           pour prendre des marches puis il  
19                           pleurait tout le temps."

20                           Puis là au bas de la page elle semble  
21           identifier un monsieur qui se nomme Jérôme Duplantie.  
22           C'est tu bien -- je prononce bien le nom?

23           **M. SCOTT:** Oui, monsieur Jérôme Duplantie.

24           **Me DUMAIS:** C'était qui Monsieur Duplantie?

25           **M. SCOTT:** C'était le président de la IFO,

1 la IFO locale.

2 **Me DUMAIS:** O.k.

3 **M. SCOTT:** C'était un orienteur à l'École  
4 secondaire La Citadelle également.

5 **Me DUMAIS:** O.k. Ensuite, elle vous  
6 identifie, monsieur Jean-Paul Scott.

7 Donc, ma question à vous, Monsieur Scott,  
8 c'est on a passé à travers des faits qui ont été relatés  
9 par Madame Sabourin à Madame Seguin. Est-ce que ce sont  
10 les faits que Madame Seguin vous a relatés?

11 **M. SCOTT:** Oui. Je dirais que oui.

12 **Me DUMAIS:** O.k. Et puis parlez-nous un peu  
13 des circonstances de votre discussion avec Madame Seguin.  
14 Est-ce que ça s'est fait par téléphone ou est-ce que ça  
15 s'est fait de personne à personne?

16 **M. SCOTT:** Probablement que je me suis rendu  
17 à l'école.

18 **Me DUMAIS:** O.k.

19 **M. SCOTT:** C'était tout près de nos bureaux,  
20 d'ailleurs.

21 **Me DUMAIS:** O.k. Et puis parlez-moi un peu  
22 de ce que proposait Madame Seguin ici. Elle semble  
23 indiquer que lorsqu'elle vous a parlé, elle avait déjà un  
24 plan d'attaque pour traiter de l'affaire. Elle vous  
25 expliquait ça et puis vous demandait votre approbation.

1 Est-ce que je comprends bien?

2 **M. SCOTT:** De ce que je me souviens de ces  
3 événements-là, Madame Seguin m'avait parlé de sa rencontre  
4 avec Madame Sabourin.

5 **Me DUMAIS:** Oui.

6 **M. SCOTT:** Et puis que Monsieur Sabourin  
7 avait remis sa démission. Et puis que Monsieur Sabourin,  
8 sa démission devait être présentée au Conseil et il ne  
9 serait plus un employé du Conseil.

10 **Me DUMAIS:** O.k. Donc, si je comprends  
11 bien, lorsque vous avez appris de l'affaire, Monsieur  
12 Sabourin avait déjà remis sa démission? Est-ce que c'est  
13 bien ça?

14 **M. SCOTT:** Je pense que oui, oui.

15 **Me DUMAIS:** O.k. Et puis qu'est-ce que vous  
16 aviez compris de la façon que cette démission-là avait été  
17 remise ou obtenue par Madame Seguin?

18 **M. SCOTT:** Je me souviens que Madame Seguin  
19 m'a parlé de sa rencontre avec Madame Sabourin et puis que  
20 les photos avaient été déchirées ou il n'y avait pas de  
21 preuve réelle, mais que Monsieur Sabourin avait jugé à  
22 propos de remettre sa démission.

23 **Me DUMAIS:** Et puis quand vous avez  
24 rencontré Madame Seguin, est-ce que vous aviez en mains  
25 cette lettre de démission là?

1                   **M. SCOTT:** Là, je pourrais pas vous dire  
2 exactement quand j'ai eu la lettre entre mes mains.

3                   **Me DUMAIS:** O.k.

4                   **M. SCOTT:** Mais je sais qu'elle a été  
5 présentée au Conseil sous peu.

6                   **Me DUMAIS:** O.k. Et puis durant ces années-  
7 là, donc entre 1972 et 1976, parce que je crois que  
8 Monsieur Sabourin a démissionné en 1976, est-ce que le  
9 principal d'une école avait l'autorisation d'accepter une  
10 démission?

11                   **M. SCOTT:** Les démissions devaient être  
12 acceptées par le Conseil. Les démissions étaient  
13 présentées à une réunion du Conseil et le Conseil pouvait  
14 les accepter ou pas, mais c'est très rare que -- oui, le  
15 Conseil acceptait les démissions. Si quelqu'un veut  
16 partir, on le laissait aller.

17                   **Me DUMAIS:** O.k. Donc, vous n'aviez pas  
18 cette autorisation-là vous-même. Vous deviez rapporter ça  
19 à votre Conseil?

20                   **M. SCOTT:** Exactement.

21                   **Me DUMAIS:** O.k. Et puis c'est bien ce que  
22 vous avez fait dans ce cas ici?

23                   **M. SCOTT:** Oui.

24                   **Me DUMAIS:** O.k. Donc, racontez moi un peu  
25 comment ça a été présenté à votre Conseil?

1                   **M. SCOTT:** Ça m'a été apporté et puis  
2 évidemment je l'ai présenté au directeur de l'éducation,  
3 Monsieur Léger.

4                   **Me DUMAIS:** Oui.

5                   **M. SCOTT:** Et puis nous avons présenté les  
6 démissions à la réunion du Conseil et puis ça a été  
7 accepté. Il n'y a pas eu de gros tralala au sujet de la  
8 démission. La démission a été acceptée. Ça a été fini.

9                   **Me DUMAIS:** O.k. Si je comprends bien,  
10 Monsieur Scott, les circonstances entourant la démission  
11 n'ont pas été présentées au Conseil?

12                   **M. SCOTT:** Non.

13                   **Me DUMAIS:** O.k. Et puis les circonstances  
14 entourant la démission n'ont pas été présentées au  
15 directeur d'éducation non plus?

16                   **M. SCOTT:** Je peux pas dire qu'elles n'ont  
17 pas été présentées au directeur de l'éducation.

18                   **Me DUMAIS:** Vous pensez que vous avez peut-  
19 être parlé à Monsieur Léger?

20                   **M. SCOTT:** J'ai définitivement parlé à  
21 Monsieur Léger, mais est-ce que je suis entré dans tous les  
22 détails, à savoir que les photos avaient été déchirées et  
23 ainsi de suite là. Mais j'avais aucun intérêt à cacher  
24 cette information à Monsieur Léger, mais d'habitude on ne  
25 présentait pas toutes les raisons au Conseil, à savoir

1           pourquoi telle ou telle personne avait remis sa démission.

2                   **Me DUMAIS:** Parce que les circonstances  
3 entourant les allégations ici étaient qu'un de vos  
4 enseignants avait abusé sexuellement des étudiants.

5                   **M. SCOTT:** Encore là, comme c'était le cas  
6 pour Mademoiselle Seguin, on n'avait aucune preuve de ça.  
7 Si on se basait sur ce que Madame Sabourin avait dit, sur  
8 des photos qui avaient été déchirées, qui n'existaient  
9 plus, Madame Seguin n'avait pas de preuve tangible.

10                   **LE COMMISSAIRE:** Non, mais nonobstant,  
11 Monsieur Scott, il y avait l'énoncé que son mari avait --  
12 s'était conduit d'une façon inappropriée avec des  
13 étudiants. Est-ce que ---

14                   **M. SCOTT:** C'est ce que Madame Sabourin  
15 avait mentionné à Madame Seguin.

16                   **LE COMMISSAIRE:** Oui. Et puis c'est dans  
17 ces circonstance-là que Monsieur Sabourin a remis sa  
18 démission?

19                   **M. SCOTT:** Oui.

20                   **LE COMMISSAIRE:** Donc, la question est à  
21 votre -- à Monsieur Léger, est-ce que vous vous souvenez si  
22 vous lui auriez mentionné que c'était à cause de soupçons  
23 d'allégation sexuelle que Monsieur Sabourin donnait sa  
24 démission?

25                   **M. SCOTT:** Je me souviens pas exactement là.

1                   **LE COMMISSAIRE:** Il y a des gens qui  
2                   démisionnent et puis peut-être quelqu'un sans doute  
3                   demande "Pourquoi est-ce qu'il résigne dans le milieu de  
4                   l'année ou au temps où est ce que c'était?"

5                   **M. SCOTT:** Bien, en fait, c'était  
6                   pratiquement selon les procédures normales.

7                   **LE COMMISSAIRE:** Oui.

8                   **M. SCOTT:** Les enseignants pouvaient  
9                   facilement remettre leur démission avant le 31 mai.

10                  **LE COMMISSAIRE:** Oui.

11                  **M. SCOTT:** Et pour prendre effet à la fin de  
12                  l'année scolaire.

13                  **LE COMMISSAIRE:** Ça fait que vous ne pouvez  
14                  pas nous dire si Monsieur Léger avait eu connaissance un  
15                  peu -- des connaissance de qu'est-ce qui aurait donné lieu  
16                  à la démission?

17                  **M. SCOTT:** Je peux pas vous dire sûrement  
18                  oui, c'est ça ou c'est pas ça.

19                  **LE COMMISSAIRE:** Correct. Merci.

20                  **Me DUMAIS:** Et puis si je comprends bien, sa  
21                  démission a été acceptée et puis je crois que vous avez  
22                  endossé sa démission? Est-ce que c'était nécessaire pour  
23                  vous de l'endosser?

24                  **M. SCOTT:** Et bien, c'était nécessaire pour  
25                  moi de l'avertir que sa démission avait été acceptée.

1                   **Me DUMAIS:** O.k. Et puis -- o.k.

2                   Donc sa démission a été acceptée et puis si  
3 je comprends bien, Monsieur Sabourin aurait quitté l'École  
4 secondaire La Citadelle; c'est bien ça?

5                   **M. SCOTT:** Oui. Au moment où il a remis sa  
6 démission, après ça, il n'est pas revenu à l'école.

7                   **Me DUMAIS:** O.k.

8                   **M. SCOTT:** Soit pour cause de maladie ou  
9 quoi que ce soit, mais il n'est pas revenu à l'école.

10                  **Me DUMAIS:** Puis vous indiquez ça parce que  
11 sa démission ne devait prendre effet qu'au mois de  
12 septembre de la même année, est-ce que je comprends bien  
13 ça?

14                  **M. SCOTT:** Disons, techniquement parlant, à  
15 la fin d'août, malgré que l'école est finie à la fin juin,  
16 mais c'était -- le contrat était valable jusqu'à la fin  
17 d'août.

18                  **Me DUMAIS:** O.k.

19                  **LE COMMISSAIRE:** Donc, en fin de compte,  
20 vous l'avez payé pour le mois de -- je comprends bien que  
21 les contrats d'un professeur c'est sur une période de 9-10  
22 mois, mais ils sont payés à l'année longue?

23                  **M. SCOTT:** Ça dépend de la convention  
24 collective.

25                  **LE COMMISSAIRE:** C'est ça.

1                   **M. SCOTT:** Strictement parlant, l'enseignant  
2                   a droit à son salaire pour le nombre de journées  
3                   d'enseignement, mais ça pouvait s'échelonner sur 12 mois ou  
4                   sur 10 mois dépendant de la convention collective.

5                   **Me DUMAIS:** O.k. Mais d'une façon ou d'une  
6                   autre, à partir de la -- du moment où il a remis sa  
7                   démission, il n'a pas remis les pieds dans l'école?

8                   **M. SCOTT:** Non, il n'est pas revenu à  
9                   l'école.

10                  **Me DUMAIS:** O.k. Et puis si je comprends  
11                  bien, cette lettre de démission-là a été déposée dans son  
12                  dossier à lui?

13                  **M. SCOTT:** Oui.

14                  **Me DUMAIS:** Et puis le dossier de  
15                  l'enseignement, est-ce que c'était à votre bureau à vous  
16                  ça?

17                  **M. SCOTT:** Il y avait définitivement un  
18                  dossier à l'École secondaire La Citadelle, mais une fois  
19                  qu'il a quitté, le dossier a dû venir au Conseil.

20                  **Me DUMAIS:** O.k. Et puis est-ce que vous  
21                  vous souvenez si ça c'est arrivé, si son dossier est revenu  
22                  au Conseil?

23                  **M. SCOTT:** Disons, il y a avait une personne  
24                  de responsable pour le personnel, les dossiers et ainsi de  
25                  suite. Le dossier a dû revenir au Conseil, mais je me

1           souviens pas spécifiquement là. J'allais pas  
2           nécessairement vérifier tous les dossiers quand ils  
3           revenaient au Conseil.

4                   **Me DUMAIS:** O.k. C'est un peu une situation  
5           particulière ici avec Monsieur Sabourin; vous êtes d'accord  
6           avec moi?

7                   **M. SCOTT:** Et bien, le fait de la démission  
8           puis de remettre le dossier, ça, ça s'appliquait à tous les  
9           enseignants.

10                   **Me DUMAIS:** Je suis d'accord avec vous.

11                   **M. SCOTT:** Mais ce qu'il y a de particulier  
12           évidemment c'est toute cette question sexuelle ou ainsi de  
13           suite.

14                   **Me DUMAIS:** Oui. Les allégations.

15                   Et puis est-ce que vous savez si il y a une  
16           note explicative qui a été mise au dossier? Est-ce que ça  
17           a été noté ces allégations-là?

18                   **M. SCOTT:** Je ne me souviens pas qu'il y ait  
19           eu de note explicative ajoutée au dossier.

20                   **Me DUMAIS:** O.k. Mais -- et certainement,  
21           vous pouvez pas me dire si quelqu'un d'autre l'a fait, mais  
22           vous, vous-même, vous n'avez pas ajouté rien au dossier?

23                   **M. SCOTT:** Non.

24                   **Me DUMAIS:** O.k.

25                   **LE COMMISSAIRE:** Maître Dumais, est-ce qu'on

1           pourrait prendre une pause de 10 minutes, une pause santé?

2                   **Me DUMAIS:** Oui.

3                   **LE COMMISSAIRE:** On va prendre une pause de  
4 10 minutes, monsieur. Merci.

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

7                   This hearing will resume at 11:45 a.m.

8 --- Upon recessing at 11:35 a.m. /

9                   L'audience est suspendue à 11h35

10 --- Upon resuming at 11:47 a.m. /

11                   L'audience est reprise à 11h47

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

14                   This hearing is now resumed. Please be  
15 seated. Veuillez vous asseoir.

16 **JEAN-PAUL SCOTT, Resumed/Sous le même serment:**

17 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR Me**  
18 **DUMAIS (Cont'd/suite):**

19                   **Me DUMAIS:** Donc -- pardon Monsieur Scott,  
20 une fois que la démission a été acceptée par le Conseil que  
21 Monsieur Sabourin a quitté, est-ce que vous avez demandé  
22 qu'il y ait une investigation interne?

23                   **M. SCOTT:** Non.

24                   **Me DUMAIS:** Est-ce que vous avez tenté  
25 d'identifier qui étaient le ou les victimes de Monsieur

1 Sabourin?

2 M. SCOTT: Non, je n'ai jamais rencontré les  
3 victimes. Les victimes n'ont jamais demandé de me  
4 rencontrer non plus.

5 Me DUMAIS: O.k. Et puis -- donc, il n'y a  
6 aucun suivi là en terme de counseling qui a été offert aux  
7 étudiants? Ça n'a jamais été approché avec eux?

8 M. SCOTT: Ça n'a jamais été demandé.

9 Me DUMAIS: O.k. Est-ce qu'il y a une --  
10 est-ce qu'il y a un suivi qui a été fait avec les  
11 enseignants qui travaillaient avec Monsieur Sabourin à  
12 savoir s'il y avait de l'information?

13 M. SCOTT: Non.

14 Me DUMAIS: O.k. Et puis ---

15 M. SCOTT: Du moins, pas à mon niveau. Est-  
16 ce que la directrice l'a fait, là je le sais pas.

17 Me DUMAIS: O.k. De ce que vous connaissez  
18 là. Et puis, certainement, vous n'avez pas donné aucune  
19 direction à Madame Seguin là à ce niveau-là?

20 M. SCOTT: Non.

21 Me DUMAIS: Est-ce que -- et puis on sait  
22 qu'en 1996 il y a eu une investigation policière qui a eu  
23 lieu. Est-ce qu'en '76, la matière a été rapportée aux  
24 policiers pour être investiguée?

25 M. SCOTT: Si je me souviens bien, mais

1 c'est vague. Je me demande si Mademoiselle Seguin et moi  
2 avons rencontré un policier de la Ville de Cornwall.

3 **Me DUMAIS:** Vous avez effectivement  
4 rencontré quelqu'un en 1997 quand vous avez fait votre  
5 déclaration. Est-ce que vous pensez que vous avez  
6 rencontré quelqu'un auparavant?

7 **M. SCOTT:** C'est vague, mais il me semble  
8 que j'ai lu quelque part que Mademoiselle Seguin et moi  
9 avons rencontré un policier de la Ville de Cornwall.

10 **Me DUMAIS:** O.k. Vous -- quand vous me  
11 dites vous avez lu ça, dans les documents que vous avez  
12 révisé pour vous préparer pour votre témoignage?

13 **M. SCOTT:** Que j'ai reçus -- que j'ai vus ou  
14 que j'ai reçus, oui.

15 **Me DUMAIS:** O.k. Parce que d'après ma  
16 révision des documents, je peux pas voir que vous auriez  
17 rencontré -- il y a aucune notation que vous auriez  
18 rencontré un policier avant 1997.

19 **M. SCOTT:** Peut-être. Remarquez bien que ça  
20 fait au-delà de 30 ans. Tout ça c'est un peu vague.

21 **Me DUMAIS:** Oui. Et puis de façon  
22 semblable, vous n'auriez pas rapporté la matière à la  
23 Société de l'aide à l'enfance en 1976?

24 **M. SCOTT:** Non.

25 **Me DUMAIS:** Donc, je comprends que Madame

1 Seguin a également donné une deuxième déclaration, puis je  
2 vous demanderais de regarder la Pièce justificative 3239.

3 **M. SCOTT:** Trois deux trois neuf (3239).

4 **LE COMMISSAIRE:** Un instant.

5 **Me DUMAIS:** On va vous l'apporter dans un  
6 instant, Monsieur Scott.

7 **LE COMMISSAIRE:** C'est un autre document.

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

9 **Me DUMAIS:** Donc, si vous pouvez tourner à  
10 la page 22, Monsieur Scott?

11 La numérotation est au haut de la page, le  
12 coin droit en haut.

13 **M. SCOTT:** Le coin droit en haut, page 22.

14 **LE COMMISSAIRE:** Je pense qu'il l'a trouvé.

15 **Me DUMAIS:** Vous avez la page?

16 **M. SCOTT:** Oui.

17 **Me DUMAIS:** O.k. Donc, juste pour essayer  
18 de vous mettre en contexte un petit peu, ça semble être une  
19 déclaration que Madame Seguin aurait fait à sa maison le 17  
20 mars 1998 suite à une poursuite qui aurait été entamée par  
21 un des étudiants, monsieur André Lavoie. Donc, ça c'est  
22 les circonstances de cette déclaration-là.

23 Si je regarde à la page 22 -- est-ce que je  
24 peux vous lire en anglais, Monsieur Scott?

25 **M. SCOTT:** Oui, oui.

1                   **Me DUMAIS:** Ou vous voulez que je vous fasse  
2                   la traduction? Donc, les dernières trois questions et  
3                   réponses, ça commence comme suit:

4                   "Q. So you next had a meeting with Mr.  
5                   Scott and Mr. Renaud. And what did you  
6                   say to Mr. Scott?"

7                   Maintenant c'est Madame Seguin qui répond:

8                   "I told him that -- what Mrs. Sabourin  
9                   had told me."

10                  Ensuite, la prochaine question:

11                  "And this is basically what you've told  
12                  me today and what you had told Mr.  
13                  Renaud previously?"

14                  A. Right."

15                  Et puis la prochaine question c'est:

16                  "What was Mr. Scott's reaction?"

17                  Puis ça c'est Madame Seguin qui indique  
18                  quelle a été votre réaction. Donc, je vais lire ce qu'elle  
19                  indique et puis après ça, si vous pouviez juste me dire si  
20                  ce qu'elle rapporte est juste?

21                  "Well, he just said 'I think you did  
22                  wise and you were wise to try and  
23                  convince him to - we had no  
24                  alternative. We had to convince him to  
25                  leave or else you will have to take -

1 and I don't think you should do that  
2 for his reputation, and I don't think  
3 that you would have to do that. I had  
4 a feeling that he was going to resign  
5 and had the feeling, and it's only  
6 feeling that he knew why he was going  
7 to resign, but he never told me and I  
8 never told him."

9 Donc, le début du paragraphe fait référence  
10 à votre réaction à l'annonce par Madame Seguin. Puis est-  
11 ce qu'elle le rapporte de façon juste?

12 **M. SCOTT:** Est-ce que vous avez une question  
13 là ou bien ---

14 **Me DUMAIS:** Peut-être que je vais me  
15 reprendre. Donc, Madame Seguin semble indiquer ici qu'elle  
16 vous a relaté les faits tels que ça lui avait été présenté  
17 par Madame Sabourin. Et puis la personne qui pose la  
18 question à Madame Seguin indique, "Bien, qu'est-ce qu'a été  
19 la réaction de Monsieur Scott?" Puis elle dit que vous  
20 avez dit:

21 "Well, he just said, 'I think you did  
22 wise and you were wise to try and  
23 convince him to - we had no  
24 alternative. We had to convince him to  
25 leave or else you will have to take -

1 and I don't think you should do that  
2 for his reputation."

3 Prsumment vous parliez ici de la  
4 rputation à Monsieur Sabourin?

5 **M. SCOTT:** Disons que je n'avais aucun  
6 intrt à protger comme tel Monsieur Sabourin. Mais ce  
7 qui tait peut-tre le plus facile et peut-tre le mieux  
8 mme pour Monsieur Sabourin et pour l'cole, c'tait  
9 d'accepter la dmission et puis que monsieur parte.

10 Autrement, il aurait pu tre difficile de  
11 prouver les raisons qui ont t avances parce qu'on  
12 n'avait pas de raison tangible, de dcision vidente de la  
13 part de -- soit de Monsieur Sabourin ou des faits.

14 **Me DUMAIS:** Outre, videmment, le tmoignage  
15 -- la dclaration de Madame Sabourin et de son fils?

16 **M. SCOTT:** Oui, et c'tait des dclarations  
17 verbales seulement. On n'avait pas le -- si on avait eu  
18 les photos ou des documents comme tels, mais on n'avait pas  
19 a et Madame Seguin n'avait pas a non plus.

20 **Me DUMAIS:** O.k. Donc, si je peux vous  
21 demander de tourner la page, Monsieur Scott, à ces  
22 diffrents passages qu'on retrouve à la page 24 et 25?

23 Donc, si je peux essayer de paraphraser ici,  
24 Madame Seguin semble indiquer qu'elle aurait galement  
25 communiqu avec le secrtaire gnral de l'Association ---

1 M. SCOTT: Des enseignants.

2 Me DUMAIS: L'AFO, l'Association des  
3 enseignants franco-ontariens, c'est bien ça?

4 M. SCOTT: Monsieur Jacques Schreibert.

5 Me DUMAIS: Et puis vous le connaissiez,  
6 Monsieur Schreibert?

7 M. SCOTT: Oui.

8 Me DUMAIS: Est-ce que vous avez eu affaire  
9 avec lui vis-à-vis cette affaire ici? Est-ce que vous lui  
10 avez parlé?

11 M. SCOTT: Non, j'ai pas parlé à Monsieur  
12 Schreibert.

13 Me DUMAIS: Est-ce que Madame Seguin vous  
14 avait avisé qu'elle lui avait parlé?

15 M. SCOTT: Peut-être.

16 Me DUMAIS: Vous avez pas un souvenir  
17 indépendant?

18 M. SCOTT: Non.

19 Me DUMAIS: O.k.

20 Et puis si vous pouvez regarder à la page  
21 26, Monsieur Scott, à peu près à la mi-page, puis je veux  
22 dire la question qui est posée à Madame Seguin ici c'est à  
23 savoir si les forces policières ont été avisées et puis à  
24 peu près à la mi-page elle indique:

25 "It never dawned on me that I should go

1 to the police."

2 Vous voyez ça?

3 **M. SCOTT:** À la page 26 ou 27?

4 **Me DUMAIS:** Vingt-six (26).

5 **LE COMMISSAIRE:** Juste au milieu, page 26.

6 **M. SCOTT:** Vingt-six (26).

7 **LE COMMISSAIRE:** Oui. Juste au milieu ça  
8 dit: "It never dawned on me that I should go to the police.  
9 "

10 **Me DUMAIS:** Est-ce que vous vous souvenez si  
11 ça a été un sujet de conversation avec Madame Seguin? Est-  
12 ce que vous avez considéré aviser la police?

13 **M. SCOTT:** Je pense que c'est une option qui  
14 n'a pas été explorée.

15 **Me DUMAIS:** O.k. Et puis est-ce qu'il  
16 serait juste de dire que, après que Monsieur Sabourin a  
17 quitté, vous n'avez plus jamais eu à faire avec lui?

18 **M. SCOTT:** Non, je ne l'ai pas rencontré par  
19 la suite. D'ailleurs, je n'avais plus l'autorité puisqu'il  
20 n'était plus l'employé du Conseil.

21 **Me DUMAIS:** O.k. Mais je veux dire, il n'y  
22 a jamais personne qui a communiqué avec vous pour avoir des  
23 références ou quelque chose de ce genre-là?

24 **M. SCOTT:** Non.

25 **Me DUMAIS:** O.k.

1                   Donc Monsieur Scott, je vais vous demander  
2 de regarder une transcription d'un témoin qui a témoigné  
3 ici à huis clos. C'est le Volume 92, et puis Madame la  
4 greffière, j'aimerais qu'on identifie pour Monsieur Scott  
5 la personne qu'on connaît sous le nom de C-112?

6                   **LE COMMISSAIRE:** Merci.

7                   Quelle page, Maître Dumais?

8                   **Me DUMAIS:** Je vais commencer à la page 20.

9                   **LE COMMISSAIRE:** C'est quel -- quel numéro?  
10 Cent douze?

11                   **Me DUMAIS:** C-112.

12                   **LE COMMISSAIRE:** Donc, Monsieur Scott, ce  
13 qui arrive c'est qu'il y a des gens -- Monsieur Scott?  
14 Ici.

15                   Il y a des gens qui ont demandé qu'on ne  
16 mentionne pas leur nom à l'enquête, donc le Monsieur dont  
17 vous avez vu le nom, on le connaît sous C-112.

18                   **M. SCOTT:** C-112.

19                   **LE COMMISSAIRE:** Donc, s'il vous plaît ne  
20 répétez pas son nom, tout simplement le numéro.

21                   Donc, numéro 92, page 20?

22                   **Me DUMAIS:** C'est bien ça.

23                   **LE COMMISSAIRE:** Êtes-vous certain? Il  
24 semblerait qu'on a à faire ici avec le patient qui était à  
25 l'hôpital, l'anglican?

1                   **Me DUMAIS:** Vous avez bien le Volume 92, les  
2                   audiences à huis clos?

3                   **LE COMMISSAIRE:** Ah! Peut-être -- à huis  
4                   clos? O.k. Un instant.

5                   Méchamment document, Monsieur Scott. On va le  
6                   reprendre.

7                   **Me DUMAIS:** Pardon.

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

9                   **LE COMMISSAIRE:** Merci. Page 20.

10                  Bon, vous êtes à la page 20, Monsieur Scott?

11                  **M. SCOTT:** Oui.

12                  **LE COMMISSAIRE:** Parfait. Maître Dumais?

13                  Comme vous voyez ---

14                  **Me DUMAIS:** Donc à peu près à la mi-page,  
15                  c'est une question qui est posée par Me Ruel qui se lit  
16                  comme suit:

17                                 "Quand vous dites qu'il avait fait de  
18                                 quoi, est-ce que votre mère a compris  
19                                 qu'il s'agissaient d'événements à  
20                                 caractère sexuel ou est-ce que vous  
21                                 avez indiqué quelque chose de cette  
22                                 nature-là?"

23                                 Donc, ici on parle d'une transcription,  
24                                 c'est une des personnes qui a fait des allégations contre  
25                                 Monsieur Sabourin, et puis qui est en train d'indiquer à

1 qui il en a parlé, juste pour vous mettre en contexte.

2 **LE COMMISSAIRE:** Donc ce Monsieur-là a  
3 témoigné ici, on le connaît sous le nom de C-112 et puis  
4 Monsieur Ruel, c'est un avocat comme Monsieur Dumais qui  
5 lui posait des questions. Correct? O.k.

6 **Me DUMAIS:** Donc la réponse de C-112:

7 "Non, je ne l'ai jamais dit à ma mère  
8 spécifiquement, mais que j'ai  
9 l'impression qu'elle avait compris,  
10 oui."

11 Donc ensuite, C-112 nous indique, et je suis  
12 à la prochaine page, à la page 21 de la transcription. Si  
13 on regarde au haut, la première entrée pour C-112:

14 "L'école a envoyé le Père Gary Ostler  
15 chez-nous pour venir me parler."

16 Ensuite la question qui lui est posée:

17 "Quand vous dites 'l'école a envoyé',  
18 est-ce que vous savez ça ou vous  
19 présumez ça?"

20 Là, C-112 répond:

21 "Non je ne le sais pas. Je ne le sais  
22 pas. Pour moi je sais, mais je n'étais  
23 pas là quand ma mère a parlé à l'école.  
24 Donc je ne sais pas à qui elle a parlé,  
25 mais elle m'a dit que Gary Ostler



1 "Qui était Jeannine Seguin? "

2 C-112 indique:

3 "C'est la directrice de l'école.

4 Jeannine Seguin était là, je crois que

5 Jules Renaud était aussi là."

6 Et puis, juste pour qu'on se comprenne bien,

7 monsieur Jules Renaud c'était bien le directeur adjoint,

8 c'est ça?

9 **M. SCOTT:** Oui.

10 **Me DUMAIS:** Et puis ensuite à la prochaine

11 page, donc au haut de la page 27, je vais simplement

12 suivre:

13 "Qui était Jules Renaud? "

14 "L'assistant directeur."

15 Ensuite le Commissaire pose une question:

16 "Est-ce que c'est Gilles que vous dites,

17 ou Jules?"

18 Ensuite C-112 épelle le nom, puis indique ce

19 qui suit:

20 "Jeannine Seguin m'a dit qu'il y avait

21 eu un incident apparemment, que je me

22 suis plaint d'un incident dans la

23 classe à Sabourin, puis que c'est pour

24 ça que je ne retournais pas. J'ai dit

25 oui. Elle m'a demandé si j'étais prêt

1                                   à aller en cour pour témoigner de ça?  
2                                   J'ai dit non. Elle a dit, 'Bien, c'est  
3                                   la fin, d'abord.'"

4                   **LE COMMISSAIRE:** C'est fini.

5                   **Me DUMAIS:** C'est fini. Donc la question que  
6 je veux vous poser, Monsieur Scott. Est-ce que Madame  
7 Seguin ne vous a jamais parlé d'un incident impliquant C-  
8 112 au sujet d'allégations contre Monsieur Sabourin?

9                   **M. SCOTT:** Non, Mademoiselle Seguin ne m'a pas  
10 parlé de C-112.

11                   **Me DUMAIS:** O.k. Et puis la raison pour  
12 laquelle je vous demande ça, puis si vous pouvez regarder  
13 la pièce 1264? C'est votre déclaration à laquelle on a  
14 regardé ce matin.

15                   **(SHORT PAUSE/COURTE PAUSE)**

16                   **Me DUMAIS:** Puis je regarde les trois  
17 dernières lignes, Monsieur Scott.

18                                   "D'après l'information que j'aie, un  
19 jeune élève du nom de C-112 demeurant  
20 sur le chemin Headline aurait été  
21 victime d'une agression sexuelle."

22                   Puis là je me demande simplement d'où est-ce  
23 que vous avez pris le nom C-112 ici?

24                   **M. SCOTT:** Si je me souviens bien, je pense  
25 bien que c'était un monsieur Albert Morin qui était

1           conseiller scolaire qui m'en avait parlé.

2                       **Me DUMAIS:** O.k. Et puis est-ce que vous  
3           vous souvenez quand Monsieur Morin vous en aurait parlé?

4                       **M. SCOTT:** Je pourrais pas dire exactement  
5           quand.

6                       **Me DUMAIS:** O.k.

7                       **M. SCOTT:** Mais je dirais certainement avant  
8           1980, probablement autour de '76-'77 là.

9                       **Me DUMAIS:** O.k. Donc, vous croyez qu'un  
10          Monsieur Morin vous aurait indiqué que C-112 aurait été une  
11          victime d'abus aux mains de Monsieur Sabourin?

12                      **M. SCOTT:** Je pourrais pas dire qu'il  
13          m'avait dit qu'il avait été une victime, mais qu'il y avait  
14          une possibilité là.

15                      **Me DUMAIS:** O.k. Et puis est-ce qu'il  
16          serait juste de dire qu'au moment où est-ce que Monsieur  
17          Morin vous aurait avisé de ça, Monsieur Sabourin n'était  
18          plus un de vos enseignants?

19                      **M. SCOTT:** Il n'était plus à l'école, non.

20                      **Me DUMAIS:** O.k. Et puis est-ce que vous  
21          auriez fait quelque chose avec cette information-là?

22                      **M. SCOTT:** Non.

23                      **Me DUMAIS:** O.k. Donc, vous n'auriez pas  
24          été rencontrer C-112 à ce moment-là, au moment où vous  
25          l'avez su?

1                   **M. SCOTT:** Non. J'aurais pas refusé non  
2 plus de le rencontrer s'il m'avait demandé ou si  
3 Mademoiselle Seguin m'avait demandé, mais j'ai l'impression  
4 que C-112 préférerait ne pas étaler le tout sur la place  
5 publique.

6                   **Me DUMAIS:** Ça c'est pas quelque chose que  
7 vous saviez à ce moment-là?

8                   **M. SCOTT:** Non.

9                   **Me DUMAIS:** Donc, Monsieur Scott, c'est les  
10 questions que j'avais pour vous.

11                   Avant que je demande à mes collègues s'ils  
12 ont également des questions pour vous, je vais vous donner  
13 l'opportunité de faire des commentaires ou faire des  
14 recommandations, si vous le voulez. Vous n'êtes pas obligé  
15 de le faire, mais vous avez l'opportunité de le faire avant  
16 que mes collègues posent des questions.

17                   **M. SCOTT:** Faire des recommandations au  
18 sujet de?

19                   **Me DUMAIS:** Au sujet de votre vaste  
20 expérience dans le domaine de l'éducation et puis d'avoir  
21 traité, à un certain moment donné du moins, avec des  
22 allégations qui ont été faites contre un de vos  
23 professeurs.

24                   **M. SCOTT:** Évidemment, il s'est passé  
25 beaucoup d'années depuis ce temps-là et je sais que depuis

1 un certain nombre d'années, un Conseil qui est au courant  
2 de quelque soupçon et qu'il a des raisons de porter plainte  
3 doit le faire au Ministère de l'éducation.

4 Je connais un cas, en fait, où le contrat de  
5 -- le certificat de l'enseignant a été annulé pour  
6 différentes raisons. Et je sais que c'est toujours  
7 beaucoup plus facile quand la victime est prête à se  
8 plaindre ou s'identifier comme telle.

9 Ce qui a été fait, je pense, depuis.

10 **Me DUMAIS:** O.k. Merci.

11 **LE COMMISSAIRE:** Merci beaucoup.

12 Mr. Strawczynski?

13 **Me STRAWCZYNSKI:** Bonjour.

14 **LE COMMISSAIRE:** Bonjour.

15 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR Me  
16 **STRAWCZYNSKI:**

17 **Me STRAWCZYNSKI:** Bonjour, Monsieur Scott.  
18 Je m'appelle Juda Strawczynski et je représente un groupe  
19 communautaire qui s'appelle Citizens for Community Renewal.  
20 C'est un groupe de citoyens basé à Cornwall qui s'intéresse  
21 dans la réforme pour s'assurer qu'il y a de la justice pour  
22 des jeunes et pour la communauté en général.

23 Je regrette que j'ai préparé mes questions  
24 en anglais, alors je vais les poser en anglais.

25 **LE COMMISSAIRE:** Donc, Monsieur Scott, vous

1           pouvez -- est-ce que vous comprenez -- est-ce que vous  
2           voulez avoir des écouteurs?

3                       **M. SCOTT:** Non, non.

4                       **LE COMMISSAIRE:** Bon. Reconnaissez tout  
5           simplement que vous pouvez répondre en français si vous le  
6           voulez ou en anglais si vous voulez, mais le choix c'est le  
7           vôtre. Correct?

8                       **M. SCOTT:** D'accord.

9                       **LE COMMISSAIRE:** Allez-y.

10                      **MR. STRAWCZYNSKI:** Mr. Scott, some of my  
11           colleagues are going to talk with you later about the  
12           understanding that the Board would have had and that you  
13           personally would have had about sexual assault and its  
14           impact.

15                      For today I'm just going to focus on Mr.  
16           Sabourin. And I just wanted to start by asking, there was  
17           no written policy about how to address allegations of  
18           sexual abuse or complaints that came forward at that point,  
19           was there, sir?

20                      **MR. SCOTT:** I don't think so.

21                      **MR. STRAWCZYNSKI:** There was no -- there was  
22           no document that you would have had, some sort of agreement  
23           with the Children's Aid Society, for example?

24                      **MR. SCOTT:** No.

25                      **MR. STRAWCZYNSKI:** And would you have known

1 any of the teachers that were under your supervision to  
2 have received training with respect to sexual abuse or  
3 trauma?

4 MR. SCOTT: Teachers who would have had  
5 experience with?

6 MR. STRAWCZYNSKI: If they had received any  
7 training with respect to how to handle a complaint of  
8 sexual abuse?

9 MR. SCOTT: Not that I can recall.

10 MR. STRAWCZYNSKI: So if I understood your  
11 testimony earlier, it was -- during this period, it would  
12 have been unusual to have gone to the Children's Aid  
13 Society or the police with respect to a matter of this  
14 nature involving Mr. Sabourin?

15 MR. SCOTT: At least it would not have  
16 happened very often.

17 MR. STRAWCZYNSKI: Okay. And let's back up  
18 for one second. I just want to make sure I've got the  
19 context right.

20 Prior to the principal Jeannine Seguin  
21 coming and discussing the meeting she had had with Mrs.  
22 Sabourin, you had not heard of any complaint with respect  
23 to Mr. Sabourin; correct?

24 MR. SCOTT: That's right.

25 MR. STRAWCZYNSKI: And when you found out

1 about these allegations, you did not meet with Mr. Sabourin  
2 to discuss them specifically?

3 MR. SCOTT: No, because Mr. Sabourin had  
4 resigned and he was no longer an employee of the Board.

5 MR. STRAWCZYNSKI: But if I understood  
6 correctly, it was Ms. Seguin who had come and discussed  
7 this matter prior to the resignation?

8 MR. SCOTT: Prior or with the resignation.

9 MR. STRAWCZYNSKI: Were you unaware of this  
10 matter until the resignation went forward?

11 MR. SCOTT: I was unaware until I got the  
12 resignation from Mr. Sabourin.

13 MR. STRAWCZYNSKI: Okay. Well, at that  
14 point then you still could have brought the letter of  
15 resignation and these matters to the attention of the  
16 police; correct?

17 MR. SCOTT: To the attention of?

18 MR. STRAWCZYNSKI: Of the local police?

19 MR. SCOTT: Both Ms. Seguin and myself were  
20 on sort of shaky grounds because we had nothing -- no  
21 evidence as such. It was mostly hearsay.

22 MR. STRAWCZYNSKI: I understand that, but at  
23 the time that Ms. Seguin comes to you, you believe that you  
24 don't have enough proof, from your evidence; correct?

25 MR. SCOTT: Well, this was Mrs. Seguin's

1 position as well.

2 MR. STRAWCZYNSKI: And you shared that view?

3 MR. SCOTT: Well, if she did not have enough  
4 grounds, I even had less grounds.

5 MR. STRAWCZYNSKI: I understand that.

6 But neither you nor Ms. Seguin are trained  
7 investigators; correct?

8 MR. SCOTT: No, we're not trained  
9 investigators.

10 MR. STRAWCZYNSKI: And neither of you, if I  
11 understand correctly, went and directly discussed this  
12 matter with Mr. Sabourin; correct?

13 MR. SCOTT: That's correct.

14 MR. STRAWCZYNSKI: And neither ---

15 MR. SCOTT: Well ---

16 MR. STRAWCZYNSKI: You didn't ---

17 MR. SCOTT: --- Ms. Sabourin met with Mrs.  
18 Seguin.

19 MR. STRAWCZYNSKI: That's right.

20 MR. SCOTT: But she never asked to meet with  
21 me, and I would not have refused to meet with her if she  
22 had asked me.

23 MR. STRAWCZYNSKI: But this was never -- you  
24 never contacted the police, so the police never could have  
25 fully investigated this matter; correct?

1                   **MR. SCOTT:** Well, we never contacted the  
2 police.

3                   **MR. STRAWCZYNSKI:** And you never contacted  
4 the Children's Aid Society so they couldn't have conducted  
5 an investigation either; correct?

6                   **MR. SCOTT:** Yeah, I guess you're right.

7                   **MR. STRAWCZYNSKI:** Okay.

8                   So there was no full investigation done by  
9 the School Board. There was no investigation done by the  
10 police and there was no investigation done by the  
11 Children's Aid; correct?

12                   **MR. SCOTT:** To my knowledge, there were no  
13 such investigations.

14                   **MR. STRAWCZYNSKI:** And I believe that  
15 although it would've been highly unusual, according to your  
16 evidence, you could have gone and sought out the assistance  
17 of the Children's Aid Society or the police; correct?

18                   **MR. SCOTT:** We could have supported the --  
19 the research, but in such cases, I think the request would  
20 have to be made by the victim himself.

21                   **MR. STRAWCZYNSKI:** And that was your  
22 understanding at the time, sir, or is that your  
23 understanding now?

24                   **MR. SCOTT:** Well, from my experience even  
25 after this, it's very difficult to pursue an issue if the

1 victim is not prepared to really come forward with the  
2 complaint.

3 **MR. STRAWCZYNSKI:** I understand that -- that  
4 there might be these difficulties in moving a matter  
5 forward, but the point remains that you have stated that  
6 you supported Ms. Seguin's decision to seek the resignation  
7 of a teacher on the grounds that you were in a tight  
8 position, that you did not have sufficient proof; correct?

9 **MR. SCOTT:** Would you repeat the ---

10 **MR. STRAWCZYNSKI:** The fact remains, sir,  
11 you have supported a principal's decision to allow a  
12 teacher to resign on the basis, in part, that you don't  
13 have sufficient proof to try to for example fire this  
14 teacher; correct?

15 **MR. SCOTT:** Yes.

16 **MR. STRAWCZYNSKI:** Now, had this matter been  
17 reported to the police or the Children's Aid Society when  
18 Ms. Seguin first learned of it, wouldn't that have provided  
19 trained investigators with an opportunity to try to probe  
20 deeper into these allegations?

21 **MR. SCOTT:** I know at that time that the  
22 teachers' federations were quite strong and I'm not saying  
23 they're not strong anymore, but you just couldn't go and do  
24 this without any serious -- without serious grounds.

25 **MR. STRAWCZYNSKI:** So one reason for not

1 going to the police or the Children's Aid is because of a  
2 union concern?

3 MR. SCOTT: Not so much about a union  
4 concern, but the chances to move forward with -- with the  
5 issue.

6 MR. STRAWCZYNSKI: Do you recall there being  
7 any serious concerns raised by this association when there  
8 was a request that there was a resignation put forward?

9 MR. SCOTT: Would you repeat the question?

10 MR. STRAWCZYNSKI: It's okay. I'll move on  
11 to another area.

12 If I understand, you did not go to the  
13 police, in part because there were concerns that there was  
14 not sufficient proof and this would be damaging -- a  
15 damaging allegation against an employee; correct?

16 MR. SCOTT: Yeah, I guess that's correct.

17 MR. STRAWCZYNSKI: But had you gone to the  
18 police or the Children's Aid Society, this could have been  
19 fully investigated; correct?

20 MR. SCOTT: Oh, it's not for me to talk for  
21 what the police or the Children's Aid Society ---

22 MR. STRAWCZYNSKI: They were never given ---

23 MR. SCOTT: --- would have ---

24 MR. STRAWCZYNSKI: --- the opportunity to  
25 investigate this matter because you never made them aware

1 of it; correct?

2 MR. SCOTT: I think from the Board's point-  
3 of-view, we did what we had to do.

4 MR. STRAWCZYNSKI: I understand that, sir.  
5 My point, sir, is that had the police or the  
6 Children's Aid Society had the opportunity to review this  
7 matter and investigate it thoroughly when the first  
8 complaints came through to your principal, they could have  
9 conducted a full investigation and it is possible, sir,  
10 that they could have found more evidence or more proof.  
11 Would you agree with me, sir?

12 MR. SCOTT: Well, it's hard to speculate at  
13 what could have been or might have been done or ---

14 MR. STRAWCZYNSKI: My point, sir, is that  
15 you are saying that you could not take further steps  
16 because there was no proof, but would you agree with me  
17 that there was no proof in part because none of this was  
18 properly, fully investigated by the relevant authorities?

19 MR. SCOTT: Oh, I'm not sure I agree with  
20 what you just said, but ---

21 MR. STRAWCZYNSKI: Would you care to explain  
22 why?

23 MR. SCOTT: Well, what was your question  
24 again or your statement or?

25 MR. STRAWCZYNSKI: The question I'm having

1 is whether you may have taken further steps, apart from  
2 asking a teacher to resign, had there been more evidence  
3 that may have been resulting from a proper, thorough,  
4 complete investigation by the relevant authorities?

5 **MR. SCOTT:** Is this now a trial for me or  
6 what or what ---

7 **THE COMMISSIONER:** No, no, no, no, first of  
8 all, you have a lawyer here and he's going to protect you  
9 if there's any questions that -- that are improper.

10 That doesn't mean, sir, that the questions  
11 that are being asked aren't going to be tough, you see,  
12 because what we're looking at is the -- your -- the  
13 institutional response of the School Board. And so, what  
14 we're looking at is yes, the -- the -- Monsieur Sabourin  
15 resigned, but we have to look at what happened and whether  
16 or not it should have been reported to the police and what  
17 would have happened otherwise, you see? So his question is  
18 -- is permissible at this point. Okay?

19 **MR. SCOTT:** What is the question again?

20 **MR. STRAWCZYNSKI:** Just again, sir, the  
21 question is whether you would have been in a position to  
22 take stronger measures against Mr. Sabourin in the event  
23 that had the police or the Children's Aid Society conducted  
24 a full and thorough investigation and uncovered more  
25 evidence, you might have had proof to move forward.

1                   **MR. SCOTT:** I'm not sure that I have an  
2 answer to your statement.

3                   **THE COMMISSIONER:** Sir -- sir, if I  
4 understand it correctly, remember when you found out about  
5 C-112 afterwards, right? Some Board member told you that  
6 maybe this person had been a victim. Do you remember that?  
7 Were you not surprised that Ms. -- that -- that would have  
8 had to have happened, right, before Monsieur Sabourin  
9 resigned which would mean that Mrs. Seguin knew about C-  
10 12's complaint before Monsieur Sabourin's wife came to the  
11 school. Is -- is that a fair ---

12                   **MR. SCOTT:** I don't think that Ms. Seguin  
13 was aware of that before ---

14                   **THE COMMISSIONER:** Am I wrong in that?

15                   **MR. SCOTT:** --- Mrs. Sabourin talked to her.

16                   **THE COMMISSIONER:** Oh, no, not about -- not  
17 about Monsieur Sabourin and Madame Sabourin, but C-112,  
18 right, he made his complaint to Mrs. Seguin before that and  
19 that's the portion we read about.

20                   She said, "Are you willing to go to court on  
21 this?" and he said "No", and she said, "Well, it's over and  
22 finish that off".

23                   So it would seem, if I'm correct, that she  
24 knew about that before -- and so to tie that in to Monsieur  
25 Strawczynski's questions is -- had there been an

1 investigation, right, maybe things like that could have  
2 come up and been dealt with quicker by the police. Do you  
3 see what I mean?

4 **MR. SCOTT:** There are many ifs.

5 **THE COMMISSIONER:** Okay. Go ahead.

6 Sorry.

7 **MR. STRAWCZYNSKI:** Well, that was the  
8 question that I was leading towards, sir, simply whether  
9 other possible complainants or victims could have been  
10 identified had there been a full investigation and, if so,  
11 then more steps could have been taken to remove Mr.  
12 Sabourin -- not just by a letter of resignation, but by  
13 taking stronger measures and stronger measures could have  
14 been taken by the School Board. But I take it there are  
15 many ifs in that question for you, sir?

16 **MR. SCOTT:** Yes.

17 **MR. STRAWCZYNSKI:** With respect to C-12,  
18 when you did learn of ---

19 **THE COMMISSIONER:** C-112.

20 **MR. STRAWCZYNSKI:** C-112; I apologize.

21 When you did learn, I understood from your  
22 evidence that you did not report this incident to the  
23 police?

24 **MR. SCOTT:** In fact, even when it was  
25 mentioned to me by the person I mentioned earlier, I ---

1                   **LE COMMISSAIRE:** Vous pouvez le dire en  
2 français si vous voulez.

3                   **M. SCOTT:** Oui. J'avais pas beaucoup de  
4 preuve non plus à ce moment-là. C'est que monsieur -- le  
5 type qui m'a mentionné peut-être, mais c'était pas --  
6 c'était rien de définitif.

7                   **MR. STRAWCZYNSKI:** So again there the same  
8 issue arose for you in your mind at that time. Because you  
9 did not have enough evidence, you did not report to the  
10 police or to the Children's Aid?

11                   **M. SCOTT:** Mais on n'allait pas le rapporter  
12 des choses à la police juste sur des qu'en dirait-on.

13                   **MR. STRAWCZYNSKI:** Do you recall whether you  
14 would have put a note somewhere in the files of the School  
15 Board with respect to this allegation?

16                   **MR. SCOTT:** No, I didn't.

17                   **MR. STRAWCZYNSKI:** And with respect to  
18 Mr. Sabourin's letter of resignation, I understand that the  
19 reason for the resignation inside the educational file was  
20 that it was under consent between the Board and  
21 Mr. Sabourin; correct?

22                   **MR. SCOTT:** M'hm.

23                   **MR. STRAWCZYNSKI:** Right.

24                   There was nothing, to your knowledge, in the  
25 file acknowledging the allegations specifically?

1                   **MR. SCOTT:** That's right.

2                   **MR. STRAWCZYNSKI:** So in both cases, if  
3 anyone down the line was going to try to go and review the  
4 educational files with respect to this particular teacher,  
5 there would be no record of two possible claims of sexual  
6 abuse involving youth?

7                   **MR. SCOTT:** I suppose there would not be.

8                   **MR. STRAWCZYNSKI:** Now, in terms of  
9 references, I understand Mr. Sabourin left shortly after  
10 his resignation. Were you ever contacted to give any  
11 references on his behalf?

12                   **MR. SCOTT:** I was not contacted.

13                   **MR. STRAWCZYNSKI:** Would you have given a  
14 positive reference for him?

15                   **MR. SCOTT:** Oh, I certainly would not have  
16 recommended highly that person should be hired by whichever  
17 organization might have been concerned.

18                   **MR. STRAWCZYNSKI:** Did you ever assist or  
19 take steps, together with Jeannine Seguin, to try to help  
20 Mr. Sabourin obtain employment elsewhere?

21                   **MR. SCOTT:** I was not involved in trying to  
22 find employment for Mr. Sabourin.

23                   **MR. STRAWCZYNSKI:** Were you aware whether  
24 Ms. Seguin ever gave any positive recommendations to  
25 employers or other agencies with respect to Mr. Sabourin?

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

2                   **MR. STRAWCZYNSKI:** Had you been contacted  
3 about any initiatives that Mr. Sabourin may have had either  
4 in a volunteer or paid capacity involving potentially youth  
5 or children, I take it then you would have not provided a  
6 positive reference?

7                   **MR. SCOTT:** I think you're right. I would  
8 not have provided positive recommendations.

9                   **MR. STRAWCZYNSKI:** Now, if anyone called the  
10 School Board with respect to Mr. Sabourin for a reference  
11 and they weren't able to reach you, was there anything that  
12 would have made anyone aware that there would be any reason  
13 not to give Mr. Sabourin a positive reference?

14                   **MR. SCOTT:** Well, nobody contacted me to  
15 that effect to have references for Mr. Sabourin.

16                   **MR. STRAWCZYNSKI:** Sir, if I understand the  
17 evidence so far, in two cases there was no note to file  
18 within the Ministry -- sorry, within the School Board's  
19 files on Mr. Sabourin?

20                   **MR. SCOTT:** There were no?

21                   **MR. STRAWCZYNSKI:** There was no note of  
22 allegations of sexual abuse involving Mr. Sabourin in his  
23 educational files?

24                   **MR. SCOTT:** I don't think so.

25                   **MR. STRAWCZYNSKI:** And there was no attempt

1 to contact either the Children's Aid Society or the local  
2 police with respect to either of these two allegations?

3 MR. SCOTT: I think you're right.

4 MR. STRAWCZYNSKI: And although eventually  
5 Mr. Sabourin did leave, it was under the supposedly mutual  
6 understanding at that point, and there was no reference to  
7 sexual abuse?

8 MR. SCOTT: I don't think there was any  
9 reference to sexual abuse.

10 MR. STRAWCZYNSKI: And would you agree with  
11 me, sir, that at that time the School Board was not taking  
12 any positive steps to try to encourage those who may have  
13 been sexually abused to come forward?

14 MR. SCOTT: I don't think it was ever a  
15 concern that was brought up to the Board.

16 MR. STRAWCZYNSKI: And it, at that time, was  
17 not a concern that would have just triggered naturally. Is  
18 that my understanding?

19 MR. SCOTT: That it would not have  
20 triggered?

21 MR. STRAWCZYNSKI: It wasn't something that  
22 would have readily come to mind for you, sir, at that time,  
23 given the allegations?

24 MR. SCOTT: In fact, we had no allegations  
25 as such.

1                   **MR. STRAWCZYNSKI:** Sir, my question -- my  
2                   last question is, looking back at the situation with  
3                   hindsight now, would you agree with me that it would have  
4                   been prudent to have contacted the police and the  
5                   Children's Aid Society at the time that the complaints  
6                   first came forward?

7                   **MR. SCOTT:** Even from my experience in other  
8                   cases afterwards, it takes more than my gut feelings to  
9                   make things produce more definite measures.

10                  **MR. STRAWCZYNSKI:** Sir, in one of these  
11                  incidents you have the spouse of the alleged perpetrator  
12                  telling a principal of your school that she has seen  
13                  photographs. It's not as though this is an allegation that  
14                  is completely out of the ether. Still you would not have  
15                  gone -- or, looking back on it, you would not go to the  
16                  police or the Children's Aid Society?

17                  **MR. SCOTT:** Well, Ms. Sabourin never talked  
18                  to me, actually. She talked to Ms. Seguin and everything  
19                  sort of ended at that point.

20                  **MR. STRAWCZYNSKI:** Okay. I think we'll  
21                  leave it there.

22                  Thank you, sir. Those are my questions.

23                  **THE COMMISSIONER:** Thank you very much.

24                  Monsieur Dumais, could you canvass the other  
25                  parties to see how long we're going to need? If we can

1           come back for 2:00 o'clock? Si on peut revenir à 2h00. On  
2           va prendre la pause pour le dîner.

3                   **M. SCOTT:** On revient à 2h00?

4                   **LE COMMISSAIRE:** C'est ça.

5                   Correct?

6                   **M. SCOTT:** O.k.

7                   **LE COMMISSAIRE:** Merci.

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

10                   The hearing will resume at 2:00 p.m.

11           --- Upon recessing at 12:38 p.m./

12                   L'audience est suspendue à 12h38

13           --- Upon resuming at 2:02 p.m./

14                   L'audience est reprise à 14h02

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

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

19           **JEAN-PAUL SCOTT, Resumed/Sous le même serment:**

20                   **MR. LEE:** Good afternoon, sir.

21                   **THE COMMISSIONER:** Mr. Lee, how are you  
22           doing today?

23                   **MR. LEE:** I'm fine, thank you.

24           --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

25           **MR. LEE:**

1                   **MR. LEE:** Mr. Scott, my name is Dallas Lee.  
2                   I'm counsel for the Victims Group here at the Inquiry. So  
3                   you know, one of my clients is a victim of Robert Sabourin,  
4                   a man named Alan Seguin. Okay? So that's where I'm coming  
5                   from on this.

6                   Can we start, please, by looking at Exhibit  
7                   1264. And obviously I need to ask my questions in English,  
8                   but if you want to answer in French, that's fine and I'll  
9                   listen to the translation.

10                  You have that there, sir?

11                  **MR. SCOTT:** Yeah.

12                  **MR. LEE:** And this is the witness statement  
13                  that was completed by Officer Sebalj, Heidi Sebalj of the  
14                  Cornwall Police Service, and the date on it is October 16,  
15                  1997. Okay?

16                  Have you had an opportunity to review this  
17                  document prior to testifying here?

18                  **MR. SCOTT:** No.

19                  **MR. LEE:** You weren't able to read this  
20                  over? Can you just take a minute then, sir, and read that  
21                  over, please?

22                  **(SHORT PAUSE/COURTE PAUSE)**

23                  **MR. LEE:** You've read that now?

24                  **THE COMMISSIONER:** You have to answer.

25                  **M. SCOTT:** Oui.

1                   **LE COMMISSAIRE:** C'est ça, merci.

2                   **MR. LEE:** We're recording here so we need  
3 "yeses" or "nos."

4                   Does this appear to you to be an accurate  
5 representation of what you discussed with Officer Sebalj?

6                   **MR. SCOTT:** With whom?

7                   **MR. LEE:** Officer Sebalj. That was the name  
8 of the police officer that you were speaking to.

9                   **M. SCOTT:** Oui, je pense que c'est correct.

10                  **MR. LEE:** Okay. And you don't have any  
11 reason to doubt that this is accurate then, what you told  
12 her? An accurate representation of what you told her?

13                  **M. SCOTT:** Non.

14                  **MR. LEE:** What I don't -- I want to talk to  
15 you about some of the information that you gave her, but  
16 first I want to ask you about some of the information we  
17 don't have in here.

18                  And, as an example, nowhere in here do we  
19 have any details about Jeannine Seguin's conversation with  
20 Mr. Sabourin's wife, as an example. You don't appear to  
21 have told Ms. Sebalj about that.

22                  **M. SCOTT:** I never had -- j'ai jamais eu de  
23 compte-rendu de la discussion de Mademoiselle Seguin avec  
24 Monsieur Sabourin.

25                  **MR. LEE:** What you tell Officer Sebalj, if

1           you look about halfway down the page, you say:

2                            "Il fut confronté à un moment donné  
3                            soit par son épouse ou par la  
4                            directrice de l'école, mademoiselle  
5                            Jeannine Seguin ou par les deux."

6           Do you see that?

7           **M. SCOTT:** M'hm.

8           **MR. LEE:** And then it goes on to say that,  
9           from there:

10                            "Il a remis sa démission comme  
11                            enseignant."

12           But you don't get into any details of -- of  
13           what Mrs. Seguin relayed to you about the conversation in  
14           terms of -- of Mr. Sabourin admitting wrongdoing and -- and  
15           talking about pictures, and about how they had been  
16           destroyed.

17           Do you remember why you wouldn't have told  
18           the officer about those details?

19           **M. SCOTT:** Je me souviens pas. On ne m'a  
20           pas demandé -- on ne m'a pas posé cette question.

21           **MR. LEE:** And I also don't see anything in  
22           here about the conversation you told us that you had later  
23           on with Albert Morin about Mr. C-112.

24           Do you remember that conversation you told  
25           us about?

1                   **M. SCOTT:** Il n'y a vraiment pas eu de  
2 conversation. Mais je pense que Monsieur Morin m'avait  
3 mentionné qu'il y avait peut-être quelque chose là. Mais  
4 on n'a pas eu de discussion à ce sujet-là.

5                   **THE COMMISSIONER:** Well, actually, Mr. Lee,  
6 he does mention it in the before last sentence.

7                   **MR. LEE:** Mr. C-112, you mean?

8                   **THE COMMISSIONER:** Yes.

9                   **MR. LEE:** Yes. Yes, he does.

10                   Mr. Commissioner is pointing you to the very  
11 last sentence in the statement, where it talks about a  
12 young man and -- and that's who we call C-112, who lives on  
13 a specific road, that he may have been a victim of sexual  
14 assault.

15                   Do you recall giving Ms. Sebalj any other  
16 information about that, or is it ---

17                   **M. SCOTT:** Non.

18                   **MR. LEE:** --- what you said here?

19                   And is there any particular reason that you  
20 wouldn't have told officer Sebalj everything you could  
21 possibly think of in relation to this matter?

22                   **M. SCOTT:** On ne m'a pas demandé davantage.

23                   **MR. LEE:** One of the things that you do talk  
24 to her about, and you were asked about this today, is the  
25 fact that Mr. Sabourin had told you that he had two or

1 three small offices, and he talked to you about locks on  
2 those offices.

3 Do you see that in the middle of the page?

4 **M. SCOTT:** M'hm.

5 **MR. LEE:** Is that a "yes," sir?

6 **M. SCOTT:** If ----

7 **MR. LEE:** I need you to say "yes" or "no."

8 You can't just say, "M'hm."

9 Is that a "yes," you see that on the page,  
10 where you talk ---

11 **MR. SCOTT:** Yes, I see it.

12 **MR. LEE:** --- about locks?

13 **MR. SCOTT:** I see that.

14 **MR. LEE:** And what I heard you say, during  
15 your examination by Mr. Dumais, was that you had a  
16 conversation with Jeannine Seguin about locks on those  
17 doors as well. Is that right?

18 **M. SCOTT:** Mademoiselle Seguin m'a dit  
19 qu'elle avait demandé d'enlever ces dispositifs pour fermer  
20 la porte.

21 **MR. LEE:** Do you -- did Ms. Seguin tell you  
22 when she had asked Mr. Sabourin to remove those locks?

23 **M. SCOTT:** Non.

24 **MR. LEE:** And do you recall when your  
25 conversation with Ms. Seguin about this occurred?

1                   **M. SCOTT:** C'est après que Monsieur Sabourin  
2                   a démissionné.

3                   **MR. LEE:** Did you ask Jeannine Seguin why  
4                   she had asked Mr. Sabourin to remove the locks on his  
5                   doors?

6                   **M. SCOTT:** Je me souviens qu'elle m'a dit  
7                   que même si on gaspillait deux ou trois films, c'était pas  
8                   une grosse dépense et puis ça justifiait pas de fermer la  
9                   porte à clé.

10                  **MR. LEE:** What you just told us was that  
11                  Madame Seguin had asked him to remove the locks.

12                  **M. SCOTT:** M'hm.

13                  **MR. LEE:** So that would suggest that the  
14                  locks were already in place, and that she asked him to not  
15                  use them. Is that what you understood?

16                  **M. SCOTT:** Bien, elle lui a demandé  
17                  d'enlever ces dispositifs quand elle a constaté que ce  
18                  n'était pas nécessaire, à son avis.

19                  **MR. LEE:** And so you would agree with me  
20                  that she -- a factor of cost wouldn't have had anything to  
21                  do with it, if the locks were already in place? There  
22                  wouldn't be any extra cost to using locks already  
23                  installed, so that couldn't have been one of the factors?

24                  **M. SCOTT:** Le coût ce n'était pas les  
25                  dispositifs mais, d'après Monsieur Sabourin, c'était les

1 films qu'il ne voulait pas perdre -- les photos qu'il avait  
2 prises.

3 **MR. LEE:** Did Madame Seguin ever suggest to  
4 you that she had some concerns about Mr. Sabourin having --  
5 locking the doors to his offices, and that that's why she  
6 asked him not to do it?

7 **M. SCOTT:** Non. Elle ne m'en a jamais parlé  
8 avant ça.

9 **MR. LEE:** Do you recall asking her that  
10 question, whether she had concerns?

11 **M. SCOTT:** Non.

12 **MR. LEE:** You've spoken several times today  
13 about having no evidence of wrongdoing by Mr. Sabourin.  
14 You recall that?

15 **M. SCOTT:** M'hm.

16 **MR. LEE:** Can you help me understand what  
17 kind of evidence you might have needed, in your mind, to  
18 take some action at the time that you learned of these  
19 allegations?

20 **M. SCOTT:** Si seulement on avait eu les  
21 photos qui ont été déchirées par Monsieur Sabourin, ça  
22 aurait été au moins une évidence de plus. Mais avant ça,  
23 on avait seulement que les versions orales.

24 **MR. LEE:** From Mr. Sabourin's wife, you  
25 mean?

1                   **M. SCOTT:** De la part de Madame Sabourin à  
2                   Mademoiselle Seguin.

3                   **MR. LEE:** And, as I understand it, you  
4                   believed that not having any evidence such as photographs  
5                   meant that you could not go to the police?

6                   **M. SCOTT:** Si Mademoiselle Seguin avait  
7                   suggéré qu'on aille consulter les agents de la police,  
8                   j'aurais certainement été d'accord. Mais la question n'a  
9                   jamais été soulevée vraiment.

10                  **LE COMMISSAIRE:** Mais Monsieur Scott, vous  
11                  êtes son superviseur. Peut-être qu'elle aurait que  
12                  ç'aurait été à vous, comme superviseur, de me suggérer ça.

13                  **M. SCOTT:** Ah, peut-être.

14                  **MR. LEE:** Would you agree with me that the  
15                  fact that you didn't have any evidence, such as pictures,  
16                  would not have prevented you from going to Mr. Sabourin  
17                  with the allegations and asking him for his comment?

18                  **M. SCOTT:** Je n'ai jamais revu Monsieur  
19                  Sabourin après.

20                  **MR. LEE:** I understand that, but that's not  
21                  my question.

22                  Is there any reason that you could not have  
23                  called Mr. Sabourin in and put these allegations to him and  
24                  asked him for a response?

25                  **M. SCOTT:** On n'a jamais abordé cette

1           possibilité-là.

2                           **MR. LEE:** Mr. Commissioner, if we can turn  
3 up Exhibit 3239?

4                           **THE COMMISSIONER:** Three two three nine  
5 (3239).

6                           **MR. LEE:** I have one housekeeping matter I'd  
7 like to deal with before I put that to the witness.

8                           **THE COMMISSIONER:** Three, two, three, nine  
9 (3239).

10                          **MR. LEE:** Does the witness have that as  
11 well? Does he have his binder there or -- 3239, Madam  
12 Clerk.

13                           Do you have that in front of you, sir?

14                          **THE COMMISSIONER:** I do, yes.

15                          **MR. LEE:** This is a transcription of an  
16 interview conducted as I understand it by a lawyer  
17 representing either an association or the Board at the time  
18 -- I'm not exactly sure which -- of Ms. Seguin in her home.

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

20                          **MR. LEE:** It's entered as exhibit 3239.

21                          **THE COMMISSIONER:** Yes.

22                          **MR. LEE:** We have at least a half of the  
23 audio tape from which this was taken in our database and it  
24 hasn't been entered. And I propose we enter it as exhibit  
25 3239A if we could.

1                   **THE COMMISSIONER:** Thank you.

2                   **MR. LEE:** And the Document Number is 740719.

3                   And there's no document to hand up or anything else.

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

5                   **MR. LEE:** It's simply just to complete the  
6                   record, I think.

7                   **THE COMMISSIONER:** Yeah.

8                   **MR. LEE:** Seven four zero seven one nine  
9                   (740719), Madame Clerk.

10                  **THE COMMISSIONER:** Thank you.

11                  **MR. LEE:** And so that will be 3239A, sir?

12                  **THE COMMISSIONER:** Yes.

13                  **---EXHIBIT NO./PIÈCE NO P-3239A:**

14                                 (740719) - Audio Taped Interview Report of  
15                                 Jeanine Seguin

16                  **MR. LEE:** Okay. Do you have that in front  
17                  of you, sir?

18                  **LE COMMISSAIRE:** Vous avez la pièce 3239?

19                  **M. SCOTT:** Oui.

20                  **LE COMMISSAIRE:** C'est ça.

21                  **MR. LEE:** And sir, as I said a moment ago  
22                  this is an interview of Jeannine Seguin at her home on  
23                  March 17<sup>th</sup>, 1998, okay?

24                                 And what I want to do is I want you to turn  
25                  to page 6 please. And you'll see at the top right-hand

1 side of the page, there are some page numbers.

2 M. SCOTT: Quelle page?

3 MR. LEE: Six.

4 LE COMMISSAIRE: Six. Six de 36, si vous  
5 voyez à la droite -- l'autre droite.

6 M. SCOTT: Six de 36.

7 THE COMMISSIONER: C'est ça.

8 M. SCOTT: Oui.

9 MR. LEE: Okay? And at this point in the  
10 interview, Madame Seguin is being asked about her meeting  
11 with Mrs. Sabourin. Okay?

12 So that's what she's talking about and if  
13 you look in the middle of the page she says:

14 "Well, I don't know the exact words she  
15 told me. But it was very clear in my  
16 mind and I immediately told my vice-  
17 principal and he didn't know either.  
18 But it was very clear in my mind that  
19 it was sexual behaviour that was not  
20 normal."

21 And the question is:

22 "Why was it clear in your mind?"

23 And the answer:

24 "By the way she described it."

25 And the question:

1 "What did she describe?"

2 And Madame Seguin answers:

3 "Well, that he had boys that would be  
4 going in his room and he would have  
5 sexual relations with them."

6 And the question:

7 "What room was this? At school or at  
8 home?"

9 And she answers:

10 "At school."

11 And then on the next page she's asked:

12 "At school, did she tell you how she  
13 knew that?"

14 And so they're asking Madame Seguin if Mrs.  
15 Sabourin said how she knew that. And Madame Seguin  
16 answers:

17 "She told me that her husband admitted what  
18 the son had told her was true and that she  
19 showed him the pictures and he admitted when  
20 he saw the pictures ..."

21 And we have a blank:

22 "... when I told her 'Well why didn't you  
23 bring me the pictures? This is  
24 something I would have proof.' But he  
25 said that 'He tore it into pieces

1                                   during the night when I was sleeping so  
2                                   I couldn't see the pictures.'" "

3                                   Okay? So that's what Madame Seguin tells us  
4                                   in this interview here. And so what we seem to have is Mr.  
5                                   Sabourin's wife telling Jeannine Seguin that when she  
6                                   confronted him with the allegation, he admitted it.

7                                   Okay? That's what she's telling Madame  
8                                   Seguin. And so my question for you is, did you and Madame  
9                                   Seguin at any point discuss whether you might go and  
10                                  confront Mr. Sabourin and see if he would admit it to you?

11                                  **M. SCOTT:** Non, cette option n'as pas été  
12                                  discutée.

13                                  **MR. LEE:** Did you at any point back at that  
14                                  time when you were learning about what Madame Seguin  
15                                  learned from Mrs. Sabourin get legal advice about how you  
16                                  should proceed?

17                                  **MR. KEEL:** Mr. Commissioner, I think we may  
18                                  be going into a dangerous area, if he's asking about legal  
19                                  advice.

20                                  **THE COMMISSIONER:** No -- well, first of all,  
21                                  sir you have to go to the microphone.

22                                  **MR. KEEL:** I understand that certain  
23                                  questions can be put with respect to legal advice but I  
24                                  think we have to be very careful because there might be  
25                                  solicitor/client privilege.

1                   **THE COMMISSIONER:** Oh, well when we get  
2                   there, we'll take a note of it.

3                   **MR. KEEL:** Thank you.

4                   **MR. LEE:** I'll stop short at that point.

5                   **THE COMMISSIONER:** Sure, I know.

6                   **MR. LEE:** Did you consult with any lawyers  
7                   for the School Board or for the school at this time about  
8                   how you should proceed?

9                   **M. SCOTT:** Non.

10                  **MR. LEE:** Do you have any knowledge of  
11                  whether Madame Seguin or anybody else with the Board  
12                  consulted a lawyer at this time?

13                  **M. SCOTT:** Je ne crois pas, mais ---

14                  **MR. LEE:** You were asked earlier today about  
15                  what you told Director Léger about this situation. Do you  
16                  recall that? Do you recall being asked about those  
17                  questions about Director Léger?

18                  **MR. SCOTT:** I really do not remember -- Je  
19                  ne me souviens pas d'avoir discuté de ça avec Monsieur  
20                  Léger.

21                  **MR. LEE:** As I understand it, you know you  
22                  told him something about Mr. Sabourin resigning at the very  
23                  least?

24                  **M. SCOTT:** C'est sûr qu'on a remis la  
25                  démission.

1                   **MR. LEE:** And before that resignation would  
2 go to the Board, it would have to go to the Director; is  
3 that right?

4                   **M. SCOTT:** Oui.

5                   **MR. LEE:** And you also told us that you have  
6 or you had at that time no interest in protecting Mr.  
7 Sabourin? That wasn't your concern; is that right?

8                   **M. SCOTT:** Je n'avais pas d'intérêt à cacher  
9 les choses.

10                   **MR. LEE:** And you certainly had no interest  
11 in hiding information from your director?

12                   **M. SCOTT:** Non.

13                   **MR. LEE:** And do I understand that as a  
14 superintendent the director would have been your  
15 supervisor?

16                   **MR. SCOTT:** Yes.

17                   **MR. LEE:** Your direct supervisor? Yes?

18                   **MR. SCOTT:** Yes.

19                   **MR. LEE:** And would it have been an  
20 expectation at that time that you would advise the director  
21 of any information that came to you concerning misconduct  
22 by a teacher?

23                   **M. SCOTT:** Vous pourriez répéter la  
24 question?

25                   **MR. LEE:** At this time in the 1970s when the

1 Robert Sabourin matter is being dealt with, would it have  
2 been an expectation that if you received information about  
3 wrongdoing by a teacher that you would tell the director?

4 **M. SCOTT:** L'information que j'avais, je  
5 l'aurais communiqué au directeur d'éducation, à Monsieur  
6 Léger.

7 **MR. LEE:** And you don't have a specific  
8 memory of doing that but would you agree with me it's  
9 unlikely that you would have told the director about what  
10 you learned about Mr. Sabourin?

11 **M. SCOTT:** Monsieur Léger ne m'a pas demandé  
12 de discuter davantage de cette question avec lui.

13 **MR. LEE:** Mr. Leger would have had no reason  
14 to ask you for any details if he didn't suspect anything  
15 was wrong. What I'm asking is whether or not you would  
16 have gone to the director as your supervisor and told him  
17 what you knew at the time?

18 And as I understand your evidence, you've  
19 said you don't remember for sure and I'm suggesting to you  
20 isn't it likely that that's what you did?

21 **M. SCOTT:** Je ne suis pas certain là.

22 **MR. LEE:** Do you believe it is likely that  
23 is information you would have provided to the director?

24 **M. SCOTT:** Je l'aurais fourni si ça avait  
25 été demandé, oui.

1                   **THE COMMISSIONER:** No, no. That's not the  
2 question. Ce que Monsieur Lee vous demande c'est que,  
3 Madame Seguin vous a rapporté à vous ce qui se passait.

4                   **M. SCOTT:** Oui.

5                   **LE COMMISSAIRE:** D'accord? Parce que vous  
6 étiez son superviseur. D'accord?

7                   **M. SCOTT:** Oui.

8                   **LE COMMISSAIRE:** O.k. Donc, vous, comme  
9 dans la chaîne d'autorité, est-ce que vous l'auriez  
10 partagée cette information-là avec Monsieur Léger qui est  
11 votre superviseur? Et puis, ce que Monsieur Lee vous  
12 demande c'est que bien que vous vous souvenez pas si vous  
13 lui avez dit ou non, est-ce que c'est probable que vous lui  
14 auriez dit?

15                   Pouvez-vous nous aider de cette façon?

16                   **M. SCOTT:** Oui, c'est possible. C'est  
17 possible.

18                   **LE COMMISSAIRE:** Ah, possible. Il y a une  
19 différence entre possible, probable et je l'ai fait, voyez-  
20 vous. C'est qu'on veut -- ce que Monsieur Lee veut savoir,  
21 c'est est-ce que c'est possible, est-ce que c'est probable,  
22 est-ce que vous pouvez nous aider de cette façon-là?

23                   **MR. SCOTT:** Franchement, je ne me souviens  
24 pas.

25                   **LE COMMISSAIRE:** O.k.

1                   **MR. LEE:** Thank you, Mr. Commissioner.  
2                   You told us about the very brief  
3 conversation you had with Albert Morin about Mr. C-112.  
4 How did you know Mr. Morin?

5                   **M. SCOTT:** Monsieur Morin était conseiller  
6 scolaire, un membre du Conseil d'éducation de Stormont,  
7 Dundas et Glengarry.

8                   **MR. LEE:** Did you know him fairly well?

9                   **MR. SCOTT:** Yes.

10                  **MR. LEE:** Did you know him to be a religious  
11 man?

12                  **M. SCOTT:** Oh, je savais qu'il été  
13 catholique, oui.

14                  **MR. LEE:** We've had something totally  
15 unrelated to this. Another witness here has talked about a  
16 man named Albert Morin in relation to a case involving  
17 Gilles Deslauriers, a priest who was convicted of abuses in  
18 1986.

19                  And she told us that she knew Mr. Morin  
20 because -- and my French isn't very good but she said  
21 because -- and I quote "Il suivait les exercices St-Ignace  
22 avec nous autres."

23                  Do you have any information about whether --

24 -

25                  **M. SCOTT:** Il suivait les?

1                   **M. LEE:** Exercises St-Ignace.

2                   **THE COMMISSIONER:** Exercise?

3                   **MR. LEE:** That's the quote in the  
4 transcript.

5                   **THE COMMISSIONER:** "Exercices St-Ignace."

6                   **MR. LEE:** Yeah. I don't know what it means.  
7 I just know it's in the transcript.

8                                   **(LAUGHTER/RIRES)**

9                   **M. SCOTT:** Je le sais pas moi non plus.

10                   **MR. LEE:** Do you have any information about  
11 whether the Albert Morin you knew was somebody who "suivait  
12 les exercices St-Ignace"?

13                   **M. SCOTT:** Je savais pas qu'Albert Morin  
14 suivait les exercices St-Ignace.

15                   **MR. LEE:** Okay. That's fine. I'm not sure  
16 if it's the same person or not. I was just trying to -- do  
17 you know where Mr. Morin worked?

18                   **M. SCOTT:** Il travaillait à la fonction  
19 publique fédérale. Je pense que c'est l'Assurance chômage.  
20 C'était, je pense, sur la rue Pitt.

21                   **MR. LEE:** And that was here in Cornwall?

22                   **M. SCOTT:** Oui.

23                   **MR. LEE:** Okay. You told -- when Mr.  
24 Strawczynski ---

25                   **THE COMMISSIONER:** Strawczynski.

1                   **MR. LEE:** There you go -- was cross-  
2                   examining you, the first person who asked you questions  
3                   after Mr. Dumais, you said that you don't think that  
4                   Madame Seguin was aware of any misconduct by Mr. Sabourin  
5                   until she met with Mrs. Sabourin. Okay? That's what you  
6                   told us.

7                   Did you ever ask Madame Seguin that  
8                   question, whether or not she had any knowledge of  
9                   misconduct before Mrs. Sabourin came in to talk to her?

10                  **M. SCOTT:** Non, je n'avais pas discuté ça  
11                  avec Mademoiselle Seguin.

12                  **MR. LEE:** Did you ever make any efforts as  
13                  superintendent to determine what Mrs. Seguin knew and when  
14                  she knew it? Is that something that you tried to figure  
15                  out?

16                  **M. SCOTT:** Nous avons des discussions bien  
17                  ouvertes, Mademoiselle Seguin et moi, et ce qu'elle avait à  
18                  me dire, elle me le disait. Elle ne me cachait pas les  
19                  choses.

20                  **MR. LEE:** Are you aware of any School Board  
21                  investigations of Madame Seguin's time as principal in  
22                  relation to the Sabourin matter?

23                  **M. SCOTT:** Non.

24                  **MR. LEE:** Not aware of any Board  
25                  investigations of her time there at all?

1                   **M. SCOTT:** Non.

2                   **MR. LEE:** Did you ever at any time talk to  
3 other teachers or other staff of the Board about any  
4 knowledge they may have had of Mr. Sabourin?

5                   **M. SCOTT:** Non.

6                   **MR. LEE:** You also told us today that it is  
7 difficult to pursue an issue if the victims are not  
8 prepared to come forward with a complaint.

9                   Do you recall saying that?

10                  **M. SCOTT:** M'hm.

11                  **MR. LEE:** Is that a "yes"?

12                  **M. SCOTT:** Oui.

13                  **MR. LEE:** And was that something that you  
14 realized at the time, that things would be a lot easier if  
15 you had a victim to come forward and make a complaint?

16                  **M. SCOTT:** Il aurait fallu que ce soit plus  
17 qu'une plainte. S'il était venu m'en parler, je l'aurais  
18 écouté. J'aurais pris le temps qu'il faut, mais c'est  
19 difficile en cour de juste se baser sur ce que -- sur des  
20 propos verbaux.

21                  **MR. LEE:** You've mentioned a couple of times  
22 now about proof and about evidence and about court. Did  
23 you at any point seek legal advice about any of these  
24 matters, about what could be tendered in court and what  
25 evidence would be needed or anything along those lines?

1                   **M. SCOTT:** Pas à ce sujet précis là.

2                   **MR. LEE:** And you understood that as  
3 superintendent your job was not to attempt to prove whether  
4 Mr. Sabourin had abused children or not. That wasn't your  
5 job?

6                   **M. SCOTT:** Est-ce que vous pouvez répéter la  
7 question?

8                   **MR. LEE:** You understood that when you were  
9 superintendent your job was not to try to prove what Mr.  
10 Sabourin had done or what he had not done. That wasn't  
11 part of your job?

12                   **M. SCOTT:** Mon rôle c'était de maintenir une  
13 saine organisation au sein de l'école et dans le système.

14                   **MR. LEE:** And part of your job also, I would  
15 suggest, is to do what you could to ensure the safety of  
16 students. Is that fair?

17                   **M. SCOTT:** M'hm.

18                   **MR. LEE:** Yes?

19                   **M. SCOTT:** Oui.

20                   **MR. LEE:** And to make sure that the teachers  
21 in your schools were good teachers who had the best  
22 interests of children ---

23                   **M. SCOTT:** Oui.

24                   **MR. LEE:** --- at heart.

25                   Did you appreciate, at the time you were

1 dealing with these matters, that victims of abuse are often  
2 hesitant to come forward on their own?

3 M. SCOTT: Si j'étais conscient du fait que?

4 MR. LEE: That victims of abuse found it  
5 hard to come forward.

6 M. SCOTT: Oui, je pense.

7 MR. LEE: And did you understand at the time  
8 that it might be difficult for a student who was being  
9 abused by a teacher to come forward because they might  
10 worry they wouldn't be believed?

11 MR. SCOTT: They wouldn't?

12 MR. LEE: Be believed. Is that something  
13 you would have understood at the time?

14 M. SCOTT: Non, je pense pas.

15 MR. LEE: Do you recall having any  
16 discussions with Madame Seguin or anybody else about how  
17 you might be able to get some of these young men to come  
18 forward?

19 M. SCOTT: Non.

20 MR. LEE: Do you have any knowledge as to  
21 whether or not Madame Seguin asked Mrs. Sabourin whether  
22 she could identify any of the kids in the pictures she had  
23 seen?

24 THE COMMISSIONER: I think the evidence is  
25 she didn't really see the pictures.

1                   **MR. LEE:** I don't think that is the  
2 evidence, sir. I think the evidence is -- Madame Seguin  
3 certainly didn't see the pictures.

4                   **THE COMMISSIONER:** No.

5                   **M. SCOTT:** Non, Madame Seguin n'a pas vu les  
6 photos.

7                   **MR. LEE:** My understanding of the facts is  
8 that Mr. Sabourin's son found the pictures, brought them to  
9 his mother. She saw them and they were subsequently  
10 destroyed by Mr. Sabourin. That's my understanding of the  
11 evidence we have in various documents.

12                   **THE COMMISSIONER:** Well, okay. Just look at  
13 page 7 of Exhibit 3239. Oh no, she showed him the  
14 pictures. Okay. It's okay.

15                   **MR. LEE:** Yeah, and Mrs. Sabourin confronted  
16 Mr. Sabourin and went ---

17                   **THE COMMISSIONER:** Yeah, but just later on  
18 he said -- "But he said he tore it into pieces during the  
19 night when I was sleeping, so I couldn't see the pictures."

20                   **MR. LEE:** I flagged that as well when I was  
21 reading it, but I think if you look at all of the documents  
22 it's fairly clear ---

23                   **THE COMMISSIONER:** Yes. Fair enough.

24                   **MR. LEE:** --- that Mrs. Sabourin would have  
25 seen them intact.

1                   So my question was whether or not you know  
2                   if Mrs. Seguin asked Mrs. Sabourin if she recognized any of  
3                   the children in the pictures that she saw?

4                   **M. SCOTT:** Je n'ai pas discuté --  
5                   Mademoiselle Seguin ne m'a pas mentionné ça.

6                   **MR. LEE:** And you didn't ask -- or you  
7                   didn't direct or ask Mrs. Seguin to go back to Madame  
8                   Sabourin and ask that?

9                   **M. SCOTT:** Non.

10                  **MR. LEE:** And the same question in relation  
11                  to Mr. Sabourin's son. Do you know whether or not anyone  
12                  asked if he recognized the kids in the pictures?

13                  **M. SCOTT:** Je pense que personne a parlé au  
14                  fils de Monsieur Sabourin excepté sa mère.

15                  **MR. LEE:** Did you consider at the time that  
16                  if Mr. Sabourin was abusing students at the school, that  
17                  those students might need help?

18                  **M. SCOTT:** C'est possible.

19                  **MR. LEE:** But is that something that you  
20                  thought of at the time, that you considered at the time?

21                  **M. SCOTT:** Je me souviens pas d'avoir  
22                  discuté des cas de certains élèves, de quels élèves, ainsi  
23                  de suite.

24                  **MR. LEE:** You don't recall having a  
25                  discussion about what would become of those kids with

1 Madame Seguin, as an example -- whether there was anything  
2 you could do to try to identify those kids and help them?

3 **M. SCOTT:** Non, on n'a pas ---

4 **MR. LEE:** And finally on this point, was  
5 there any -- I understand what you said about your  
6 discussions with Madame Seguin about not confronting Mr.  
7 Sabourin; okay? I understand what you've said about that  
8 and the decision was made you wouldn't bring him in and  
9 confront him about it.

10 My question is whether or not you ever  
11 discussed asking Mrs. Sabourin to go to her husband and try  
12 to convince him to come in and admit to these things?

13 **M. SCOTT:** Je n'ai jamais parlé à Madame  
14 Sabourin.

15 **MR. LEE:** I know that. Was there ever any  
16 discussion between you and Madame Seguin of going back to  
17 Mme. Sabourin and asking her to convince her husband to  
18 come in and tell what he'd done?

19 **M. SCOTT:** Non, on l'a pas ---

20 **MR. LEE:** One of the witnesses that we've  
21 had at this Inquiry is named Alain Seguin and he was one of  
22 the victims of Mr. Sabourin. And what Mr. Seguin told us  
23 was that when he was abused by Mr. Sabourin, he was not a  
24 student at La Citadelle. He was a student at an elementary  
25 school nearby. Okay? And he told us that he would go to

1 La Citadelle on breaks at lunchtime, things like that, and  
2 he would go inside the school and he would visit with Mr.  
3 Sabourin and he was abused there.

4 Were you aware of that, sir?

5 **M. SCOTT:** Non.

6 **MR. LEE:** And would you agree with me, based  
7 on your experience, that it would be unusual for elementary  
8 school students to be in high schools?

9 **M. SCOTT:** Normalement, les étudiants des  
10 écoles élémentaires ne viennent pas dans les écoles  
11 secondaires.

12 **MR. LEE:** And in your experience, the  
13 students in a high school should be only the students  
14 attending that high school?

15 **M. SCOTT:** Fondamentalement, oui, c'est pour  
16 les élèves des écoles secondaires, mais ça peut arriver.  
17 Ça pouvait arriver qu'un élève de l'élémentaire aille  
18 visiter -- voir son grand frère ou sa grande sœur.

19 **MR. LEE:** And would you agree with me that  
20 it would be unusual for an elementary school student to be  
21 using the facilities such as a photography room or things  
22 like that at a high school?

23 **M. SCOTT:** Ça serait plutôt rare.

24 **MR. LEE:** And, similarly, it would be rare  
25 for an elementary school teacher to be having frequent

1 contacts in a high school with a high school teacher?

2 M. SCOTT: Pour un enseignant d'élémentaire?

3 THE COMMISSIONER: You got that wrong.

4 MR. LEE: Did I misspeak?

5 THE COMMISSIONER: You said "an elementary  
6 teacher" instead of an elementary student going to the high  
7 school.

8 MR. LEE: With the greatest of respect to  
9 elementary teachers, I'm not concerned with them right now.

10 Would you agree that it would be odd for an  
11 elementary student to be having regular interactions in the  
12 high school with a high school teacher?

13 M. SCOTT: Oui, ça serait irrégulier.

14 MR. LEE: And would you agree with me that  
15 if students or staff of the high school came to appreciate  
16 that an elementary school teacher was -- or an elementary  
17 school student, rather, was frequently attending the high  
18 school and was in the company of a high school teacher,  
19 that that would -- that should cause them to make some  
20 enquiries to see what's going on?

21 M. SCOTT: Ces possibilités-là n'ont jamais  
22 été explorées, puis ça n'a jamais été soulevé non plus.

23 MR. LEE: I understand that.

24 I wasn't in this school or this school board  
25 back in the 1970s, you were.

1                   So I'm asking, in your experience, would you  
2                   have expected that if a teacher or staff member noticed  
3                   that an elementary school student was spending a lot of  
4                   time at the high school, that they would ask some questions  
5                   to find out what was going on?

6                   **M. SCOTT:** Oui, c'est possible, probable.

7                   **MR. LEE:** And after this Sabourin episode  
8                   came to your attention, you didn't ask for an investigation  
9                   of the matter within the School Board?

10                  **M. SCOTT:** Je ne savais pas -- je ne savais  
11                  jamais que cet élève-là allait souvent à l'école  
12                  secondaire. Je ne le savais pas point.

13                  **MR. LEE:** No, I understand that, and I'm  
14                  speaking more generally.

15                  When you learned what you did about Mr.  
16                  Sabourin, as superintendent, you didn't direct that an  
17                  investigation be conducted?

18                  **M. SCOTT:** Non.

19                  **MR. LEE:** Thank you, sir. Those are my  
20                  questions.

21                  **THE COMMISSIONER:** Thank you.

22                  Mr. Horn?

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

24                  **HORN:**

25                  **MR. HORN:** Good afternoon. My name is Frank

1 Horn of the Coalition for Action. I just have a few  
2 questions.

3 I'd like to ask you some questions about  
4 certain things that were mentioned by Mr. Alain Seguin.  
5 One of the things that he said in his statement to the  
6 police -- let's put his statement to the police, Exhibit  
7 Number 89.

8 **LE COMMISSAIRE:** Donc, ça c'est un énoncé,  
9 Monsieur Scott, que Alain Seguin aurait donné aux policiers  
10 le 26 janvier 1998.

11 **M. SCOTT:** O.k.

12 **LE COMMISSAIRE:** Donc, c'est monsieur Alain  
13 Seguin qui est en train de parler aux policiers.

14 What part of the exhibit do you want to  
15 bring him to?

16 **MR. HORN:** Yes, one of the things he  
17 mentions is that ---

18 **THE COMMISSIONER:** Where, Mr. Horn?

19 **MR. HORN:** On the second page. Mr. Seguin  
20 (sic) was a photography teacher at the St. Lawrence High  
21 School and La Citadelle.

22 **THE COMMISSIONER:** Now, first of all, it's  
23 Monsieur Sabourin that was the teacher ---

24 **MR. HORN:** Oh yes.

25 **THE COMMISSIONER:** --- not Mr. Seguin.

1                   **MR. HORN:** Mr. Sabourin. Mr. Sabourin was a  
2 schoolteacher at the -- two different high schools.

3                   Were you aware that he was also in the other  
4 school board?

5                   **M. SCOTT:** C'était le même conseil scolaire,  
6 mais les -- Monsieur Sabourin a enseigné, semble-t-il, à  
7 l'École St-Laurent peut-être avant de devenir enseignant à  
8 temps plein à l'École secondaire La Citadelle.

9                   **MR. HORN:** Okay. The St. Lawrence High  
10 School is not part of the Separate School Board today. Was  
11 it back then?

12                   **M. SCOTT:** Non. L'École secondaire St-  
13 Laurent faisait partie du Conseil d'éducation de Stormont  
14 Dundas et Glengarry.

15                   **MR. HORN:** And the School Board that you  
16 were with covers both of them, La Citadelle and St.  
17 Lawrence?

18                   **M. SCOTT:** Oui.

19                   **MR. HORN:** One was not the Separate School  
20 Board then?

21                   **M. SCOTT:** Les deux étaient avec le Conseil  
22 d'éducation. Le Conseil des écoles séparées n'avait pas  
23 d'écoles secondaires à ce moment-là.

24                   **MR. HORN:** Okay. So this was part of the  
25 same school system.

1                   And how close are they to each other, La  
2                   Citadelle and St. Lawrence?

3                   **M. SCOTT:** Pendant un certain temps, les  
4                   deux étaient dans la même école. Ensuite, l'École  
5                   secondaire St-Laurent a été construite à peu près à un  
6                   kilomètre de l'École secondaire La Citadelle, un kilomètre  
7                   à l'est.

8                   **MR. HORN:** What year was that? Was it  
9                   before ---

10                  **M. SCOTT:** En 1973-'74.

11                  **THE COMMISSIONER:** In '73-'74, he said.

12                  **MR. HORN:** Okay. So this individual, Mr.  
13                  Seguin, when he was talking, was he talking when the two  
14                  schools were attached or were they separate?

15                  **THE COMMISSIONER:** Mr. Horn, how would he  
16                  know? You're showing him a statement which he's never seen  
17                  before.

18                  **MR. HORN:** He's the superintendent. He  
19                  should know something.

20                  **THE COMMISSIONER:** I'm sure he does.

21                  **MR. HORN:** Okay. So he was in charge of the  
22                  schools and he's the one that mentioned that the two  
23                  schools were at one time together.

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

25                  **MR. HORN:** And then later on they were

1 separated, right?

2 M. SCOTT: Il y avait deux chiffres. Un  
3 commençait tôt le matin et l'autre commençait au début de  
4 l'après-midi.

5 MR. HORN: Oh, I see.

6 M. SCOTT: Quand les deux écoles étaient  
7 ensembles.

8 MR. HORN: Oh, I see. So it was not like --  
9 right now, there's Vanier here and St. Joseph's. There are  
10 two attached schools. It wasn't like that?

11 MR. SCOTT: No.

12 MR. HORN: Okay. So both these schools were  
13 in the same building?

14 M. SCOTT: Pour quelques années. Ensuite,  
15 l'École secondaire St-Laurent a été construite environ un  
16 kilomètre plus à l'est de La Citadelle.

17 MR. HORN: Okay.

18 In 1972, were they separate or were they  
19 under the same roof?

20 M. SCOTT: En '72, c'était sous le même  
21 toit.

22 MR. HORN: Okay.

23 Now, were you a -- aware that Mr. -- on page  
24 4, Mr. Seguin mentions a trip ---

25 THE COMMISSIONER: Where?

1 MR. HORN: Page 4 ---

2 THE COMMISSIONER: Yeah, you ---

3 MR. HORN: --- about a third of the way  
4 down.

5 THE COMMISSIONER: Approximately a year  
6 after meeting him?

7 MR. HORN: Yeah, approximately a year.

8 THE COMMISSIONER: So what?

9 MR. HORN: Did -- now -- were you aware that  
10 Mr. -- Mr. Sabourin was in any way associated with  
11 Archbishop LaRocque?

12 M. SCOTT: Non.

13 MR. HORN: Now, according to this statement  
14 by Mr. Seguin, he was the personal photographer of Mr.  
15 LaRocque and that there was a function that took place in  
16 Hull and he invited Mr. Seguin to go with him there to Hull  
17 to help him while he was doing photography on some sort of  
18 a function in Hull and that he was -- he was taken up  
19 there.

20 THE COMMISSIONER: Okay, just a second.

21 Mr. Lee?

22 MR. LEE: I'm going from memory here, but I  
23 thought the record was corrected that Mr. Seguin was  
24 mistaken when he -- when he referenced Archbishop LaRocque  
25 and it should be Proulx.

1                   **THE COMMISSIONER:** Yes.

2                   **MR. LEE:** And I think that was cleared up  
3 when he was here. It had nothing to do with Eugene  
4 LaRocque. It was ---

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

6                   **MR. LEE:** --- Adolphe Proulx.

7                   **THE COMMISSIONER:** Sir, I think that the  
8 record will show and the evidence is, in any event, as far  
9 as I can remember, that that's an error. The person who  
10 was sworn in at the inauguration in Hull was Monseigneur  
11 Proulx. Monseigneur LaRocque was here.

12                   **MR. HORN:** Okay.

13                   **THE COMMISSIONER:** Okay.

14                   **MR. HORN:** So you -- you don't know anything  
15 about Mr. -- was it -- Sabourin's relationship with any --  
16 to a Bishop even the one up in Hull?

17                   **M. SCOTT:** Non.

18                   **MR. HORN:** With the -- I believe he was the  
19 Bishop in Hull.

20                   **THE COMMISSIONER:** Adolphe Proulx.

21                   **MR. HORN:** Proulx.

22                   **THE COMMISSIONER:** Yes.

23                   **MR. HORN:** Yes. So you don't know any of  
24 that relationship?

25                   **M. SCOTT:** Non.

1                   **MR. HORN:** Okay.

2                   Did Mr. Alain Seguin's name -- was it ever -  
3                   - was that ever brought up to you?

4                   **M. SCOTT:** Non. Je l'ai entendu le nom  
5                   seulement qu'aujourd'hui.

6                   **MR. HORN:** Okay.

7                   Now you mentioned something about the fact  
8                   that the -- one of the considerations that you had to take  
9                   into account was that the Teachers Federation was quite  
10                  strong back at that time.

11                  **M. SCOTT:** Oui, je pense que les fédérations  
12                  sont encore assez fortes.

13                  **MR. HORN:** Okay.

14                  Now, does that -- did that mean that this  
15                  kind of a subject would have caused a problem between  
16                  yourself and the teachers, if they became aware of this --  
17                  this kind of incident?

18                  **M. SCOTT:** Non.

19                  **MR. HORN:** Pardon?

20                  **M. SCOTT:** Non, ça ne m'inquiétait pas.

21                  **MR. HORN:** You weren't aware -- you weren't  
22                  aware of that at all. I mean, you -- I'm sorry, you  
23                  weren't afraid of that at all.

24                  **M. SCOTT:** That's true. C'est ça.

25                  **MR. HORN:** So you -- when you mentioned the

1 fact that they were quite strong, what were -- why did you  
2 say that?

3 **M. SCOTT:** Surtout sur les technicalités.  
4 Ils étaient bien pointilleux sur quand est-ce que ça été  
5 fait? Pourquoi? Ainsi de suite. Mais, non, je n'avais  
6 pas peur.

7 **MR. HORN:** Okay. So if there was a problem  
8 of this sort, the -- the union would not get involved and  
9 go -- and support this individual on something like this  
10 kind of a problem.

11 **M. SCOTT:** J'aurais certainement supporté  
12 sur les technicalités. Comment ça c'est produit? Quand?  
13 Ainsi de suite. Mais pas sur le fond de la question.

14 **MR. HORN:** Okay. So really, you didn't have  
15 carte blanche. When you found a problem, you couldn't just  
16 go in and make a decision that this person is gone -- to  
17 fire them or get rid of them.

18 **M. SCOTT:** Pour congédier un enseignant, il  
19 fallait avoir des raisons sérieuses. Fallait le prouver.

20 **MR. HORN:** So when you heard of these  
21 things, you took these -- you try to convince the teacher  
22 to just retire and move away.

23 **M. SCOTT:** C'est pas moi qui a convaincu ou  
24 qui a essayé. C'est que Monsieur Sabourin lui-même a remis  
25 sa démission. On n'est pas allé le supplier, le convaincre

1 de faire ça, il l'a fait de lui-même.

2 MR. HORN: But it made it easy for you so  
3 you wouldn't have to get into a dispute with the union.

4 M. SCOTT: Surtout qu'on n'aurait pas à le  
5 prouver, nous, parce qu'on pouvait pas -- on pouvait pas  
6 juste congédier quelqu'un sans motif réel.

7 MR. HORN: All right. What you have is an  
8 individual who, now you know that there's a problem, he may  
9 be abusing children. And what you're doing is you -- you  
10 just want to ease him out of his job. Is that what you  
11 want to do? And just let it -- let -- hand him over to  
12 somebody else and let them be a problem for somebody else.

13 M. SCOTT: Non. L'intention c'était pas de  
14 le passer à un autre Conseil scolaire ou ailleurs. Mais de  
15 le ---

16 MR. HORN: I'm not talking about another  
17 school board. This is an individual who no matter where he  
18 goes is going to be a problem. If he's abusing children in  
19 school, he may be doing it elsewhere.

20 M. SCOTT: Possiblement.

21 MR. HORN: So you weren't concerned at the  
22 fact that once he's left your employ, he's going to go  
23 somewhere else and he may start abusing children somewhere  
24 else?

25 M. SCOTT: Je ne voulais certainement pas

1 favoriser le fait que ça se reproduise ailleurs.

2 MR. HORN: So what steps did you take to  
3 make sure that that didn't happen?

4 M. SCOTT: On n'a pas exploré toutes ces  
5 possibilités-là.

6 MR. HORN: So you just -- you just left it  
7 at that; let somebody else worry about it when the problem  
8 occurs somewhere else.

9 M. SCOTT: J'ai pas dit que je voulais que  
10 les autres règlent ça. Mais ce n'était pas de mon ressors  
11 d'aller discuter de ce qui allait se passer dans cinq ans  
12 ou 10 ans après.

13 MR. HORN: Okay. You knew about one  
14 situation. There's a possibility he's around, maybe,  
15 hundreds of other children in your school. So he's -- if  
16 there's one individual that's come forward, there may be  
17 others even within your own school.

18 And then if he goes somewhere else, he could  
19 be doing the same thing somewhere else. That's a big  
20 problem. You should have done something.

21 M. SCOTT: Éventuellement, le Ministère de  
22 l'éducation a pris des mesures pour que de tels cas connus  
23 doivent être rapportés au Ministère de l'éducation et puis  
24 le brevet d'enseignement est enlevé -- annulé.

25 THE COMMISSIONER: You've made your point,

1 Mr. Horn.

2 MR. HORN: Pardon?

3 THE COMMISSIONER: You've made your point.

4 Carry on.

5 MR. HORN: Okay.

6 (SHORT PAUSE/COURTE PAUSE)

7 MR. HORN: What year did you become a  
8 superintendent?

9 M. SCOTT: Mil neuf cent soixante douze  
10 (1972).

11 MR. HORN: Nineteen seventy two (1972).  
12 Prior to that, from 1957 to 1972, you were a school  
13 teacher?

14 M. SCOTT: Non. J'ai été enseignant à  
15 l'élémentaire, directeur à l'élémentaire, enseignant au  
16 secondaire, directeur d'école au secondaire.

17 MR. HORN: Okay. You went from being a  
18 principal, then you became the superintendent of a lot of  
19 schools? Is that -- all right.

20 And you just started this job? Is that what  
21 happened?

22 M. SCOTT: En '72, oui.

23 MR. HORN: Pardon?

24 M. SCOTT: En '72. En 1972, j'ai été nommé  
25 surintendant.

1                   **MR. HORN:** And the appointment was -- how  
2 does that process take place? You apply for the job or,  
3 what? You made an application and you got that position?

4                   **M. SCOTT:** C'est ça.

5                   **MR. HORN:** Did you have to move from another  
6 part of Ontario to come to here or -- where were you at  
7 that time? Vanier area?

8                   **M. SCOTT:** Prescott-Russell.

9                   **MR. HORN:** Okay. So you moved into the  
10 area, you got a job, now you're superintendent of a lot of  
11 schools. And one of the first things you come face to face  
12 with is this problem in the same period of time, right at  
13 the very beginning?

14                   **M. SCOTT:** Je suis arrivé ici en '72, et ce  
15 problème-là a surgit en '76. Ça faisait quatre ans que  
16 j'étais ici.

17                   **MR. HORN:** Okay. So this incident then took  
18 place about four years after you were appointed?

19                   **THE COMMISSIONER:** That's what he said.

20                   **MR. HORN:** I thought maybe it was sometime  
21 around 1972, because the statement by Mr. Seguin is that --  
22 he talks about 1972 in his statement.

23                   **THE COMMISSIONER:** Yeah, but that not - that  
24 isn't the incident to which he became aware of.

25                   **MR. HORN:** Okay, I understand that but there

1 was problems, talking about something happening in 1972.  
2 So that means there was an incident that took - that is  
3 recorded later of somebody being abused in '72.

4 So when you got started, there was, it  
5 sounds like, there was one individual in the school, that  
6 particular school, who had been abused by that school  
7 teacher?

8 **M. SCOTT:** Je ne le savais pas.

9 **MR. HORN:** And he was in the school that you  
10 were now supervising.

11 **THE COMMISSIONER:** And your point is, Mr.  
12 Horn?

13 **MR. HORN:** The point is, for four years, he  
14 had an individual who was molesting at least one individual  
15 in that school, as a photographer, in the school that you  
16 were supervising, and you were going to that school at  
17 least once a week.

18 **THE COMMISSIONER:** So ---

19 **M. SCOTT:** J'l'ai jamais ---

20 **MR. HORN:** And you never -- there was never  
21 anything that came forward? There was no suspicion? There  
22 was no problem, you didn't hear anything?

23 **M. SCOTT:** Non.

24 **MR. HORN:** Not at all?

25 **M. SCOTT:** Non.

1                   **MR. HORN:** And did you ever find out if  
2 anybody in that school, after this thing blew up in 1976,  
3 did you ever go back and say, "Maybe there was a problem  
4 here all along?"

5                   **M. SCOTT:** Je ne me souviens pas que ça aie  
6 été apporté à mon attention.

7                   **THE COMMISSIONER:** Mr. Lee?

8                   **MR. LEE:** We're getting repetitive now. I  
9 went over these questions. I'm fond of the work I did  
10 today. And I think if Mr. Horn can be directed to move on  
11 to something I haven't already covered, that would be  
12 helpful, sir.

13                   **THE COMMISSIONER:** Thank you. Mr. Horn?

14                   **MR. HORN:** I have a different focus from Mr.  
15 Lee, but ---

16                   **THE COMMISSIONER:** Well explain me the focus  
17 and we'll see where we can go, but you're repeating a lot  
18 of the questions.

19                   **MR. HORN:** Okay.

20                   **THE COMMISSIONER:** And with respect to your  
21 interests, which is conspiracy and collusion, and that kind  
22 of thing.

23                   **MR. HORN:** No. Friendships and people  
24 knowing each other and ---

25                   **THE COMMISSIONER:** Okay, okay.

1                   **MR. HORN:** --- referring children to each  
2                   other. That's the kind of things that we're concerned  
3                   about.

4                   **THE COMMISSIONER:** Right. Well then, get to  
5                   it.

6                   **MR. HORN:** Okay. What church were you in  
7                   attendance?

8                   **THE COMMISSIONER:** Did you attend church?

9                   **MR. HORN:** Did you attend church?

10                  **M. SCOTT:** Oui.

11                  **MR. HORN:** Back then, what church were you  
12                  attending?

13                  **M. SCOTT:** C'est une église près de Cornwall  
14                  Centre Road. Le Père Dubé était curé. J'oublie le nom de  
15                  la paroisse.

16                  **MR. HORN:** Okay. Do you know -- who was  
17                  your priest?

18                  **THE COMMISSIONER:** Mr. Chisholm?

19                  **MR. CHISHOLM:** Blessed Sacrament?

20                  **THE COMMISSIONER:** Huh?

21                  **MR. CHISHOLM:** Blessed Sacrament?

22                  **M. SCOTT:** Non.

23                  **THE COMMISSIONER:** Doesn't matter. He said  
24                  that his priest was Father Dubé.

25                  **MR. HORN:** Okay. Father Dubé. All right.

1 THE COMMISSIONER: M'hm.

2 MR. HORN: I never heard of him before.

3 THE COMMISSIONER: You haven't?

4 MR. HORN: No. His name, does it come up?

5 I don't know.

6 THE COMMISSIONER: Yeah, I think so. I  
7 think he was charged in Quebec and acquitted.

8 MR. HORN: Oh. I forgot about that.

9 THE COMMISSIONER: M'hm.

10 MR. HORN: Was there ever any - did you know  
11 about that? Did you know about the problems that he had?

12 M. SCOTT: Non.

13 THE COMMISSIONER: First of all, Father Dubé  
14 was charged in the 1990s, no, actually, close to 2000.

15 MR. HORN: Okay. And when were you  
16 attending that church?

17 M. SCOTT: De 1972 à 1976-77.

18 MR. HORN: Okay, then you went elsewhere  
19 after that?

20 M. SCOTT: À l'église près de McConnell --  
21 sur la rue McConnell, plus au nord.

22 MR. HORN: Okay. Are you a member of the  
23 Knights of Columbus?

24 M. SCOTT: Non.

25 MR. HORN: Okay. Do you know any police

1 officers with the Cornwall Police Services?

2 THE COMMISSIONER: When?

3 M. SCOTT: Non.

4 MR. HORN: Do you know Kevin Malloy?

5 M. SCOTT: Kevin?

6 MR. HORN: Kevin Malloy.

7 M. SCOTT: Non.

8 (SHORT PAUSE/COURTE PAUSE)

9 MR. HORN: That's it. Thank you.

10 THE COMMISSIONER: Thank you.

11 All right. Mr. Chisholm, do you have any  
12 questions?

13 MR. CHISHOLM: Yes, sir.

14 THE COMMISSIONER: You do?

15 MR. CHISHOLM: Not many. A few.

16 THE COMMISSIONER: That's what I said, a  
17 few.

18 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.  
19 CHISHOLM:

20 MR. CHISHOLM: Good afternoon, Mr. Scott.

21 My name is Peter Chisholm. I'm counsel for the local CAS.

22 If I understand your evidence, you first  
23 became involved in teaching in 1957. Is that right?

24 You have to give an oral answer, sir.

25 M. SCOTT: Oui, oui.

1                   **MR. CHISHOLM:** And in terms of your career,  
2 it spanned from 1957 through to 1994, right?

3                   **M. SCOTT:** Oui.

4                   **MR. CHISHOLM:** You held the position of  
5 teacher, principal, superintendent through those years?

6                   **M. SCOTT:** Et directeur d'éducation.

7                   **MR. CHISHOLM:** And director.

8                   During the course of the evidence of the  
9 public inquiry over the last few years, we've heard from a  
10 number of individuals. I'm interested in some of the  
11 former people who were involved with the CAS, such as  
12 Jeannette Antoine, Miss Cathy Sutherland, C-14.

13                   Those names likely don't mean anything to  
14 you, but during the course of some of their evidence, they  
15 indicated that they would attend school with bruises and  
16 various marks on their body.

17                   And witnesses such as an individual by the  
18 name of C-14 and Cathy Sutherland suggested that the  
19 teachers could not help but recognise that there was  
20 something wrong with them just by looking at them through  
21 their physical appearance.

22                   So if could, if I could take you back to the  
23 1960s, and the '70s and the '80s, into that time period,  
24 and just ask for your assistance with respect to some of  
25 the training that would have been given to teachers and

1 other individuals in the schools at the time.

2 Can you tell us, sir, what the training  
3 would have been with respect to school personnel with  
4 respect to identifying signs of abuse amongst the children  
5 who were in attendance?

6 **M. SCOTT:** Non. Je ne me souviens pas  
7 d'avoir discuté de ce sujet-là.

8 **MR. CHISHOLM:** Okay. And with respect to  
9 the duty to report? Are you aware today that the  
10 Provincial legislation imposes a duty on people in Ontario  
11 to report suspicions of children in need of protection?

12 **M. SCOTT:** M'hm.

13 **MR. CHISHOLM:** You're aware of that duty.  
14 And what can you tell us with respect to the training that  
15 teachers or school personnel in your Board would have  
16 received with respect to that duty to report that was in  
17 the -- again, back in the 1960s, '70s and '80s?

18 **M. SCOTT:** Je pense pas qu'il y avait  
19 beaucoup de précision à cet effet-là.

20 **MR. CHISHOLM:** In terms of training?

21 **M. SCOTT:** Et le fait de rapporter les faits  
22 là.

23 **MR. CHISHOLM:** Back in that time period that  
24 I'm talking to you about, would the teachers have been  
25 aware of which of their students were wards of the CAS?

1                   **M. SCOTT:** Répétez la question s'il vous  
2                   plaît?

3                   **MR. CHISHOLM:** Sure. Back in the '60s and  
4                   '70s and '80s, would teachers have been made aware of the  
5                   fact that certain of their students were wards of the CAS?  
6                   Would that be something that a teacher would be told about,  
7                   within the school?

8                   **M. SCOTT:** Qu'ils étaient des pupilles de la  
9                   Société de l'aide à l'enfance?

10                  **LE COMMISSAIRE:** C'est ça.

11                  **MR. CHISHOLM:** Yes. Would you have known if  
12                  student X and student Y were at the school, and one --  
13                  Student X was a ward would be made known to that student's  
14                  teachers?

15                  **M. SCOTT:** Non, pas nécessairement, non.

16                  **MR. CHISHOLM:** And, again, back in the  
17                  1960s, '70s, and 1980s, if a student were -- or, sorry, if  
18                  a teacher were -- were to observe bruises and marks on a  
19                  student, what would that student -- what would the teacher  
20                  be expected to do?

21                  **M. SCOTT:** On n'avait jamais le droit de  
22                  malmener les étudiants.

23                  **LE COMMISSAIRE:** Non, non, non. Qu'est-ce  
24                  qu'il veut dire là, c'est si un jeune arrivait à l'école  
25                  toute marqué, des -- évidemment qu'il avait été battu ou

1           quelque chose, c'est quoi le -- y avait-il une obligation  
2           sur le prof de faire de quoi?

3                   **M. SCOTT:** Je ne me souviens pas de tels cas  
4           qui nous ont été rapportés. Tout le temps que j'ai été en  
5           éducation, je me souviens pas que des élèves soient arrivés  
6           à l'école malmenés, marqués, ainsi de suite là.

7                   **MR. CHISHOLM:** Okay. But if -- if one of  
8           your teachers in the school had made such an observation,  
9           what would you expect that teacher to do?

10                   **M. SCOTT:** On aurait certainement essayer de  
11           trouver les raisons, les causes pourquoi ça s'est produit.

12                   **MR. CHISHOLM:** So you would expect the  
13           teacher to make inquiries of the child or -- or the child's  
14           parents, or whomever, to figure out what caused the marks  
15           or the bruises? Is that fair to say?

16                   **M. SCOTT:** Si ça avait été le cas, oui.

17                   **MR. CHISHOLM:** Thank you, sir, those are my  
18           questions.

19                   **THE COMMISSIONER:** Okay, just before the  
20           break I just need to know --- this was supposed to take 40  
21           minutes.

22                   Mr. Thompson, do you have any questions?

23                   **MR. THOMPSON:** No questions, Mr.  
24           Commissioner.

25                   **THE COMMISSIONER:** Mr. Crane? Will you have

1 any questions of this gentleman?

2 **MR. CRANE:** No thank you.

3 **THE COMMISSIONER:** Anybody else? Did I miss  
4 anybody? OPP? No?

5 All right. Ms. Birrell? Or, no? Okay.

6 Sir, do you have any questions of your  
7 witness?

8 **MR. KEEL:** No, thank you.

9 **THE COMMISSIONER:** Thank you. Mr. Dumais.

10 **MR. DUMAIS:** No, I don't have any, Mr.  
11 Commissioner.

12 **THE COMMISSIONER:** Okay. Parfait. Bon,  
13 bien Monsieur Scott, je vous remercie beaucoup d'être venu.  
14 À plus tard.

15 **M. SCOTT:** Merci bien.

16 **THE COMMISSIONER:** Nous allons prendre la  
17 pause et on revient dans 15 minutes.

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

20 This hearing will resume at 3:25 p.m.

21 --- Upon recessing at 3:07 p.m. /

22 L'audience est suspendue à 15h07

23 --- Upon resuming at 3:25 p.m. /

24 L'audience est reprise à 15h25

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

1           veuillez vous lever.

2                           This hearing is now resumed. Please be  
3           seated. Veuillez vous asseoir.

4                           **THE COMMISSIONER:** Thank you.

5                           **MS. JONES:** I call Mr. Dave Thomas, please.

6                           **THE COMMISSIONER:** Thank you.

7                           Good afternoon, sir.

8                           **MR. THOMAS:** I've already been up ---

9                           **THE COMMISSIONER:** You're permitted to  
10           affirm, if you wish, or to be sworn in.

11                           **MR. THOMAS:** I'll affirm.

12                           **THE COMMISSIONER:** He'll affirm? Okay,  
13           swear him on the Bible.

14                           Sir, do you promise that the evidence that  
15           you're going to give today shall be the truth, the whole  
16           truth, and nothing but the truth?

17                           **MR. THOMAS:** Yes.

18                           **THE COMMISSIONER:** Thank you.

19           --- DAVID THOMAS, Affirmed/Sous affirmation solonelle:

20           --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.  
21           **JONES:**

22                           **MS. JONES:** Thank you, Mr. Thomas.

23                           I'm going to be going very briefly into your  
24           background just to refresh everyone's memory, because I  
25           know that you've testified here before, sir.

1                   And we are principally going to be looking  
2                   at the Robins' report and looking at the recommendations  
3                   that were made then. And just looking for your response to  
4                   whether these items have been implemented as part of Board  
5                   practice, and, if they have not been, perhaps what an  
6                   explanation can be concerning that, and what the position  
7                   of the Board is.

8                   So, to start off with your background,  
9                   Mr. Thomas. The education background that you have is that  
10                  you had a Bachelor of Science degree from Trent in 1980, a  
11                  Bachelor of Education from Queen's in 1980, and a Masters  
12                  of Education at York in 1992.

13                  You were a Superintendent of Education with  
14                  the Peel Region for some time, and you have been the  
15                  Director of the Upper Canada District School Board since  
16                  November, 2003. Is ---

17                  **MR. THOMAS:** That's true.

18                  **MS. JONES:** --- that correct?

19                  I understand that your complete résumé was  
20                  filed as an exhibit the first time that you came here, so  
21                  I'll leave it at that, sir.

22                  **MR. THOMAS:** I'm just looking for the  
23                  Robins' report.

24                  **MS. JONES:** That's fine.

25                  **MR. THOMAS:** I had it in my hand here a

1 second ago.

2 (SHORT PAUSE/COURTE PAUSE)

3 MS. JONES: Are you able to answer a couple  
4 of questions then sir?

5 MR. THOMAS: Sure.

6 MS. JONES: Okay. The document that I'd  
7 like to actually refer to is the Upper Canada District  
8 School Board, the recommendations of the Sydney Robins'  
9 report outlined in "Protecting our Students, a Review to  
10 Identifying and Prevent Sexual Misconduct in Ontario  
11 Schools, 2000."

12 Do you have that, Madam Clerk? Thank you.

13 THE COMMISSIONER: Thank you.

14 MR. THOMAS: Great, thank you.

15 MS. JONES: Now, I want to return to a brief  
16 discussion that you'd had when you were here, I believe in  
17 August, 2006, concerning the same sort of document.

18 And, just for the record, Mr. Commissioner,  
19 the Executive Summary of the Robins' report is actually  
20 Exhibit 54, but at this time I don't actually want to refer  
21 to that, I'm just going to be referring to this document.

22 And I'd like to discuss some of the  
23 recommendations that came out, and, specifically, look at  
24 how these recommendations have been applied to the Board of  
25 Education in addressing the institutional response to

1 sexual abuse allegations within your particular school  
2 board, sir.

3 And it would appear that some of the  
4 recommendations call for legislative change before they can  
5 be successfully implemented, but I will not be spending  
6 time on those points because they're clearly beyond your  
7 authority and ---

8 **MR. THOMAS:** I have some notes in my  
9 briefcase to help me give you -- can I pull it out? I've  
10 just brought them ---

11 **MS. JONES:** Certainly.

12 **MR. THOMAS:** --- along.

13 **MS. JONES:** Certainly.

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

15 **MR. THOMAS:** My apologies.

16 **MS. JONES:** I could tell you were looking  
17 for something earlier.

18 **MR. THOMAS:** Yes, I was.

19 **MS. JONES:** All right.

20 **MR. THOMAS:** This. Thank you.

21 **MS. JONES:** All right. Just for the record,  
22 Mr. Commissioner, the exhibit is 3393, that I will be  
23 making references to.

24 --- **EXHIBIT NO./PIÈCE NO. P-3393:**

25 Upper Canada District School Board

1                   Recommendations of Sydney Robins J. outlined in  
2                   Protecting our Students: A Review to Identify &  
3                   Prevent Sexual Misconduct in Ontario Schools,  
4                   2000

5                   **THE COMMISSIONER:** I have it.

6                   **MS. JONES:** Thank you.

7                   I will also not be asking you to comment on  
8                   recommendations that have already been implemented because  
9                   that would seem a bit redundant, shall we say, at the time.  
10                  However, if you wish to expand on certain aspects that are  
11                  significant to your testimony here today, please feel free  
12                  to do so. I will also not be looking at recommendations  
13                  over other sorts of areas that your Board doesn't have any  
14                  control over either.

15                  So the very first recommendation I'd like  
16                  you to go to, please, is 10.2. These items don't have what  
17                  we call Bates pages, but 10.2 is on page 4 ---

18                  **THE COMMISSIONER:** Page 4.

19                  **MS. JONES:** --- of Exhibit 3393. Do you  
20                  have that in front of you, sir?

21                  **MR. THOMAS:** This is the "Each school board  
22                  should, where desirable, refine the more general rules  
23                  through their own policy of protocols to address issues of  
24                  particular concern in their community"?

25                  **MS. JONES:** Yes, that's the one. Thank you.

1                   Just a couple of background questions  
2           because that is the first one that I wish to address. It  
3           says here that the Board, which is your Board:

4                               "...relies on the professional advisory  
5                               as communicating an appropriate  
6                               standard."

7                   And I wonder if you could please describe  
8           what you mean by "professional advisory"?

9                               **MR. THOMAS:** We have several professional  
10          advisors, the Ontario College of Teachers being one  
11          advisory group, and a series of professional organizations  
12          like the Ontario Public School Officers Association, the  
13          Council of Directors of Education, Ontario, a variety of  
14          teachers' federations that we work with and professional  
15          bodies that would make recommendations to the managers and  
16          principals of an organization.

17                               **MS. JONES:** And is this a local Cornwall  
18          advisory panel?

19                               **MR. THOMAS:** No. This would be provincial-  
20          related panels.

21                               **MS. JONES:** So are they literally based in  
22          Toronto?

23                               **MR. THOMAS:** No. We have local  
24          organizations that would make recommendations. For  
25          example, the Ontario Principals' Council, which has its own

1 local organization, they would be -- they would deal with  
2 community related issues as a group of principals  
3 et cetera, and each of the federations would also have  
4 local -- not chapters, but their own groupings that would  
5 also be involved heavily in working with teachers and  
6 educational assistants and principals, et cetera.

7 **MS. JONES:** And in this particular context  
8 here, the professional advisory, what is its mandate?

9 **MR. THOMAS:** Well, again, there's a variety  
10 of professional advisories. It depends on the mandate of  
11 the organization. The Ontario College of Teachers, a  
12 professional body which I'm a member of, would set  
13 standards for practice for teachers in the province. Other  
14 groups would set standards of practice codes for principals  
15 et cetera, and those would be recognized and aligned with  
16 local organizations.

17 **MS. JONES:** And could you explain why this  
18 professional advisory, by your description, sounds like  
19 it's something that's based provincially rather than  
20 locally? Why is a provincial advisory panel, in other  
21 words, making decisions about local practices?

22 **MR. THOMAS:** We and -- currently every  
23 single cent that comes to a board of education comes  
24 through the Provincial Government, and each of our  
25 organizations is also organized around provincial

1 activities and our curriculum is organized by provincial  
2 standards, and everything is organized that particular way  
3 and then interpreted by boards and schools.

4 **MS. JONES:** Has there been any movement  
5 since these recommendations were made to give specific  
6 policies or protocols that are unique to the Cornwall  
7 community since Bill 101 was enacted?

8 **MR. THOMAS:** No.

9 **MS. JONES:** Can you explain why that would  
10 not have happened?

11 **MR. THOMAS:** The fact is that most of the  
12 Robins Report type of things are to deal with provincial-  
13 wide issues, and those issues would be similar to -- for  
14 example, the jurisdiction that I work in comes all the way  
15 from Kingston to Montreal and surrounds Ottawa. In each of  
16 those jurisdictions, our board office, the policies and  
17 procedures, would be to be used for the entire area of  
18 Eastern Ontario.

19 **MS. JONES:** Is there any flexibility or  
20 latitude built into this advisory committee of sorts to  
21 react specifically to needs within a community such as  
22 Cornwall?

23 **MR. THOMAS:** You'd have to give me more  
24 specific -- what you'd be looking for in latitude.

25 **MS. JONES:** Perhaps some policies or

1 protocols would be more useful to be implemented in  
2 Cornwall, say, than other communities.

3 **MR. THOMAS:** Without prejudice, the piece  
4 that you might see in some of the interpretations would be  
5 dealing with issues of social justice and equity. There  
6 would be interpretations that potentially some communities  
7 would need further assistance with resources, resource  
8 allocation or personnel delivery. Those things would be  
9 differentiated by a board office, by a local agency, based  
10 upon formulas that we'd have to look at the standards in  
11 each of the communities.

12 **MS. JONES:** As Director of the Board of  
13 Education here, do you have any influence on what issues or  
14 steps are taken in order to accelerate the work of policy  
15 development within your specific community?

16 **MR. THOMAS:** I'd like to think I'd have a  
17 significant influence.

18 **MS. JONES:** Is the Ontario College of  
19 Teachers responsible for all policies affecting the  
20 management and administration of schools in Ontario?

21 **MR. THOMAS:** No.

22 **MS. JONES:** Does the Board have the  
23 authority to supplement policies to meet its own unique  
24 needs?

25 **MR. THOMAS:** Absolutely.

1                   **MS. JONES:** And go beyond perhaps the actual  
2 requirements or policies of the provincial board?

3                   **MR. THOMAS:** Yes, we could.

4                   **MS. JONES:** And who controls advancing of  
5 these sorts of documents?

6                   **MR. THOMAS:** Our Board of Trustees would set  
7 policy. They would direct me, as the CEO of the  
8 organization, to implement the policies that they have  
9 voted on and placed into operation.

10                   **MS. JONES:** Is there any sort of checks and  
11 balance system within the Board to ensure compliance with,  
12 say, the Robin recommendations to see if in fact they have  
13 been implemented?

14                   **MR. THOMAS:** We have regular reviews of our  
15 policies and procedures and regularly in each and every one  
16 of our schools on a minimum of two different occasions  
17 there are two different stops; one in which I meet with all  
18 of the senior managers and principals in our system to let  
19 them know of the reporting procedures, and that is done --  
20 that's done by myself.

21                   We also have a -- approximately about this  
22 time of the year again, a series of staff meetings at all  
23 of our schools and all of our departments where the lead  
24 managers and principals set the standards of reporting, of  
25 duty to report, and remind the individuals who have

1 obligations professionally of how they're to conduct  
2 themselves in dealing with issues of abuse or issues of  
3 concern in that particular matter.

4 **MS. JONES:** Thank you.

5 Could we please go to Recommendation 12,  
6 which is at the bottom of the same page, number 4, that  
7 we're on. And this particular recommendation says:

8 "Section 18(1)(b) should be amended to  
9 clarify that the duty to inform a  
10 colleague about an 'adverse report'  
11 does not apply to a report of suspected  
12 sexual misconduct."

13 In your response it states there that the  
14 *Teaching Profession Act* states:

15 "Despite any regulation made under  
16 subsection (1), a member who makes an  
17 adverse report about another member  
18 respecting suspected sexual abuse of a  
19 student by that other member, need not  
20 provide him or her with a copy of the  
21 report or with any information about  
22 the report."

23 Was this actual response implemented within  
24 your Board?

25 **MR. THOMAS:** Yes, it has been.

1                   **MS. JONES:** And is the practice within your  
2 Board on reporting consistent with this recommendation?

3                   **MR. THOMAS:** With over 4,000 employees and  
4 hundreds of principals and vice-principals and managers,  
5 I'd like to think that we adhere to this very closely.  
6 This is very important to me in particular that people  
7 understand the duty of care and the duty of protection.

8                   And, yes, this is a piece that I must admit  
9 can be confusing because under the federation's rules and  
10 procedures, an adverse report on teaching -- for example,  
11 they have some rules that they have to follow that you must  
12 report and so many times the written report must go to the  
13 person you're concerned about.

14                   This is very different, however. This is in  
15 protection of children and sometimes it's confusing that  
16 the two might get mixed up and we have to spend time as  
17 leaders in our system differentiating this with the other  
18 duties and procedures in other organizations.

19                   **MS. JONES:** Thank you.

20                   If we could jump now to Recommendation 49.1,  
21 which is page 13 of this summary.

22                   **MR. THOMAS:** Yes.

23                   **MS. JONES:** The recommendation is this:

24                   "Every school board in Ontario should  
25 establish and promote adherence to

1 policies and protocols pertaining to  
2 sexual misconduct of teachers, other  
3 school staff and volunteers."

4 Your Board response requires adherence to  
5 the protocol with the Children's Aid Society first  
6 developed in 1989. Has there been any movement by the  
7 Board to revisit the 1989 protocol in collaboration with  
8 the CAS and the Board?

9 **MR. THOMAS:** We worked with the Ontario  
10 College of Teachers in this particular respect as well to  
11 adhere to the standards of the professional -- but this  
12 again is another area that we will continue to have to do  
13 more work in.

14 **MS. JONES:** Does the current protocol  
15 adequately meet the needs of the Board with respect to  
16 sexual misconduct of teaching staff, employees and  
17 volunteers?

18 **MR. THOMAS:** I think meets it at a certain  
19 standard. I think we could go further.

20 **MS. JONES:** How would you recommend that you  
21 go further with that?

22 **MR. THOMAS:** I think there has to be more  
23 training at every single level.

24 **MS. JONES:** We'll get to the training in  
25 just a moment, but thank you.

1                   If we could just go to the next  
2       recommendation, which is on the very next page, page 14.

3                   It states:

4                   "These policies and protocols should be  
5                   designed to a) protect students from  
6                   sexual abuse and harassment through  
7                   policies that are calculated to prevent  
8                   misconduct before it occurs; b) promote  
9                   the early identification of sexual  
10                  misconduct when it has occurred; c)  
11                  ensure that allegations of sexual  
12                  misconduct are fairly investigated and  
13                  evaluated; d) protect students who have  
14                  been victimized from further physical,  
15                  psychological or emotion harm and; e)  
16                  recognize and complement applicable  
17                  laws.

18                  It appears that the Board protocol with  
19                  the CAS does not provide for early  
20                  identification or prevention due to  
21                  resourcing issues which includes issues  
22                  regarding funding and expertise such as  
23                  social workers, psychologists,  
24                  psychiatrists and pediatricians.

25                  School boards are not capable of such

1                   measures without support from the  
2                   Ministry of Education, Ontario College  
3                   of Teachers and Teachers' federations."

4                   Can you please explain that more fully?

5                   **MR. THOMAS:** Explain the latter part of what  
6                   you've said, why we aren't able to do that?

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

8                   **MS. JONES:** Yes, please.

9                   **MR. THOMAS:** Commissioner, I come with a  
10                  great deal of experience to the panel today. In fact, in  
11                  the previous jurisdiction where I was the Coordinator of  
12                  Special Services, I led one of the most comprehensive child  
13                  abuse prevention programs. It was done in a "rural and  
14                  urban community" and we did significant training of staff  
15                  on all of the issues that were here.

16                  We have not done it here in Upper Canada in  
17                  my over five years as director. Because one of the things  
18                  that I learned professionally in leading -- and I will say  
19                  proud at the end of the day when I hang up my hat -- one of  
20                  the most important things I ever did as an educator.

21                  But what we did learn there is that when you  
22                  empower children to protect themselves and you engage staff  
23                  in training to identify the subtleties particularly of  
24                  child sexual abuse, then you have to have an army of  
25                  psychologists and social workers to come in behind because

1 it's not enough to have a kind, supportive, willing teacher  
2 who identifies the need. Then we know that the boys and  
3 girls who have identified -- and even staff who come back  
4 and identify something from years ago, that they will need  
5 support and to organize a campaign to empower -- your  
6 community also has to have a campaign organized to heal  
7 your community as well.

8 And what I've learned there is if you're  
9 going to ask these very important questions, then you have  
10 to have your resources organized behind you to support the  
11 needs of your community.

12 **THE COMMISSIONER:** But you were able to do  
13 it where you came from?

14 **MR. THOMAS:** I didn't say I did well.

15 **THE COMMISSIONER:** All right. Okay.

16 **MR. THOMAS:** It was, I think, after we  
17 realized there's some things that we'd like to have done to  
18 prepare ourselves for the appropriate fallout that came.

19 **THE COMMISSIONER:** All right.

20 So with the lessons learned, is there a  
21 reason why the Upper Canada District School Board isn't  
22 taking it one step further?

23 **MR. THOMAS:** We would need many more staff  
24 than the current formula would lend us the ability to serve  
25 the community effectively. This is a very large community

1 in Eastern Ontario.

2 **MS. JONES:** So if I'm hearing you correctly  
3 then, funding is the major problem for you? It's a  
4 blockade for you in providing appropriate training that you  
5 see should be done?

6 **MR. THOMAS:** Serving both the Minister of  
7 Education and my Board of Education, I look forward to all  
8 the funding I can get and I have never once not said I get  
9 to handle more.

10 **MS. JONES:** Have you ever specifically  
11 requested funding for training?

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

13 **MS. JONES:** Okay. Is that something you've  
14 done every year since you've been the director in your  
15 forecasting of your needs?

16 **MR. THOMAS:** In the area of this particular  
17 special area, it's an area of concern. It continues to be  
18 an area that we would use effectively, particularly in our  
19 special education and student services area.

20 **MS. JONES:** And I know that you've only been  
21 the Director of Education here for three years, but are you  
22 able to speak ---

23 **MR. THOMAS:** No, actually, it's been five  
24 years.

25 **MS. JONES:** Oh, five years. Yes, that's

1 right.

2 Are you able to speak -- since the date of  
3 this Robins report, where this recommendation was made, has  
4 this been something consistently requested even from your  
5 predecessor?

6 **MR. THOMAS:** I'm not sure what my  
7 predecessor was asking for, but the fact is that my  
8 predecessor dealt with the amalgamation of four very large  
9 boards and the marriage of those very large boards into  
10 Upper Canada was a very consuming activity, and I know I'm  
11 still dealing with the fallout of that merger now.

12 **MS. JONES:** Okay. If we could please go to  
13 Recommendation 50, which is on the same page:

14 "Given the shared responsibility and  
15 necessary interaction between school  
16 boards, Children's Aid Societies and  
17 police for the reporting and  
18 investigation of sexual abuse allegedly  
19 engaged in by teachers, other school  
20 staff and volunteers, protocols should  
21 also be developed cooperatively between  
22 school boards, local police forces and  
23 children's aid societies."

24 **THE COMMISSIONER:** Madam Clerk, could you be  
25 blowing that up for the public? You can't?

1 Oh, it's not on Supertext. Okay.

2 **MS. JONES:** That's the problem.

3 **THE COMMISSIONER:** I tried.

4 **MS. JONES:** And the Board response is:

5 "The protocol first developed in 1989  
6 and continues to be applied in its  
7 updated form."

8 The question I have is, is there a process  
9 in place to review the actual protocol and update it as  
10 required?

11 **MR. THOMAS:** Yes, we have a safe school  
12 superintendent who has a very important role to play in  
13 working with our Children's Aid Societies that we have  
14 multiple across Eastern Ontario and also working with our  
15 Police Services Board and our OPP. And this is an area  
16 that we'll continue to work in with those groups.

17 **MS. JONES:** Do you know when it was last  
18 amended?

19 **MR. THOMAS:** I'm not -- I don't have that at  
20 my fingertips.

21 **MS. JONES:** I'm sorry; and are reviews and  
22 consultations -- sorry, are reviews and amendments done in  
23 consultation with the CAS?

24 **MR. THOMAS:** We work with a number of CAS in  
25 Eastern Ontario and we work closely in those partnerships

1 with them to change and update according to the Ministry  
2 procedures that are sent out to us.

3 **MS. JONES:** And I'll just read Number 51:  
4 "School board policies and protocols  
5 should be regularly reviewed and  
6 updated to reflect changes to existing  
7 laws or to accommodate improvement  
8 which flow from the implementation of  
9 these policies."

10 The response is:

11 "The protocol is reviewed and updated  
12 as necessary."

13 Is basically your answer from the previous  
14 recommendation similar to that recommendation as well?

15 **MR. THOMAS:** Yes. When we have changes that  
16 come down from the Ministry, we deal with those in a timely  
17 fashion.

18 **MS. JONES:** Thank you.

19 Now, if we go to the next page on page 15,  
20 we start Recommendations 56 to 61.2 inclusive which deals  
21 with the issue of training and education. I'll just read  
22 out -- I won't be reading out each and every one of these  
23 perhaps. I'll see how much time I have here, but Number 56  
24 states:

25 "All teachers, principals, vice-

1 principals and other school staff and  
2 volunteers who are with students on a  
3 regular and prolonged basis should be  
4 provided with ongoing in-service  
5 training on sexual misconduct policies  
6 and protocols on both abuse and  
7 harassment and on their professional  
8 and ethical duties, including the  
9 protection of students through the  
10 reporting of known or suspected sexual  
11 misconduct."

12 Your response is:

13 "The Board provides in-service to  
14 teachers through staff meetings and to  
15 principals and regional superintendents  
16 in meetings regarding duties pursuant  
17 to the Board protocol with the  
18 Children's Aid Society."

19 In your opinion, is that adequate to comply  
20 with the actual recommendation that's made there?

21 **MR. THOMAS:** Yes, it is on the reporting  
22 side, yes.

23 **MS. JONES:** On the reporting side?

24 With respect to 56.2:

25 "In-service education and training

1                                   should be provided on the topics  
2                                   identified in Recommendation 52.2. The  
3                                   subject of sexual misconduct can be  
4                                   integrated with education and training  
5                                   on analogous subjects such as physical  
6                                   abuse."

7                                   And your response is the same that was given  
8                                   to the previous recommendation, that you do provide in-  
9                                   service training of somewhat to the teachers.

10                                  Can you describe exactly what you mean by  
11                                  this training or staff meeting forum. What does that mean,  
12                                  please?

13                                  **MR. THOMAS:** The principals are directed,  
14                                  through the superintendents and my office, as Director of  
15                                  Education, CEO is to, twice a year on a minimum or when  
16                                  necessary. And, for example we have training coming up in  
17                                  April, some extensive training for principals in this area,  
18                                  and those are things that came up.

19                                  We identify needs and leadership, changeover  
20                                  in leadership, a whole new group of younger principles  
21                                  coming where we have to change, but on a regular basis,  
22                                  twice a year, our principals either lead with their staffs  
23                                  and the principals that the superintendents meet, whether  
24                                  superintendent or myself would go over the current issues  
25                                  and standards of our community when it comes to this

1 particular topic.

2 **MS. JONES:** But when you say you, yourself,  
3 would go over that topic, how long a talk would that be?  
4 Is that over several days or is this ---

5 **MR. THOMAS:** No, this would be -- it would  
6 be a portion of a meeting.

7 **MS. JONES:** Okay.

8 **MR. THOMAS:** It could be -- depending on the  
9 nature of the -- the maturity of the staff, how many times  
10 they've had this training and so forth. Some would be  
11 updating. Some of it would be brand new. We have an  
12 orientation session for brand new principals. It's a part  
13 of that.

14 That training would be very different than  
15 if you had 15 or 16 veterans who have been through the  
16 training before. It would be a reminder, an update of  
17 protocols, if a teacher reports or a person reports, or a  
18 parent reports, what should you follow up and so forth.

19 And if you were a brand new principal, there  
20 would be a different type of orientation.

21 **MS. JONES:** Okay.

22 And you say that it comes around in the  
23 context of the meeting. What about PD days or special  
24 education teacher training days? Would that be a venue or  
25 a forum that it might also be taking place?

1           **MR. THOMAS:** Absolutely.

2           **MS. JONES:** In 57 it states:

3                    "In-service training should provide  
4                    in writing all relevant telephone  
5                    numbers and contact names for a given  
6                    school district. Up to date board  
7                    policies and protocols should be  
8                    provided, together with any written  
9                    material that explain or summarize  
10                   existing policies."

11           And you state:

12                    "The Board protocol with the  
13                    Children's Aid Society identifies all  
14                    relevant contact information  
15                    required."

16           Anything to add to that?

17           **MR. THOMAS:** These are posted in case areas  
18           in our school around public telephones and staff rooms and  
19           teachers in their teacher handbooks that are created by  
20           their principals for procedures at a school. These would  
21           also be a page in those types of books.

22           **MS. JONES:** And the last recommendation:

23                    "Principals, vice-principals,  
24                    superintendents and directors of  
25                    education or any other school

1 officials who bear additional  
2 responsibility for addressing sexual  
3 misconduct should be given special  
4 training."

5 Your response is:

6 "Information is provided through the  
7 director's address at the beginning  
8 of the school year."

9 **MR. THOMAS:** That's one of the most  
10 important areas where I do speak to our principals about  
11 setting a standard in the protocol in the effective schools  
12 that are -- it says the important thing a principal can do  
13 is create a safe, orderly, learning environment, and we put  
14 that right there, that every person or school should be  
15 safe physically, emotionally, intellectually, and we set  
16 those standards and that's a part of my address with them.

17 **MS. JONES:** In your opinion, is speaking to  
18 this issue in your annual address an effective way of  
19 educating those responsible for addressing sexual  
20 misconduct within the schools?

21 **MR. THOMAS:** Yes. I think when you're the  
22 CEO, the director of the organization stops in their annual  
23 address to make this a very important part of it. I make  
24 it an important part of it. They understand what he or she  
25 is talking about that is important.

1                   **MS. JONES:** So your address then, if we look  
2                   at the actual Recommendation 58, would be classified as  
3                   special training?

4                   **MR. THOMAS:** That would -- I would consider  
5                   that a special announcement of concern that your  
6                   director/CEO has and that should be paid attention to. I  
7                   would not call that professional development.

8                   The professional development in another --  
9                   in April will have a comprehensive, a day-and-a-half of  
10                  special training for ongoing training for principals in  
11                  this area and other areas of, one, investigation and also  
12                  the area of reporting.

13                  **MS. JONES:** Now, you mention that's coming  
14                  up in April. What about for the past years, eight years or  
15                  so since the Robins Report came out, did you have special  
16                  training available for people who wanted it?

17                  **MR. THOMAS:** Yes, we have. As I said  
18                  before, particularly orientation for brand new principals.  
19                  That group has come through in the last five years. This  
20                  is a place holder in a comprehensive orientation package.

21                  **MS. JONES:** And you're satisfied that your  
22                  Board provides sufficient training for your teachers?

23                  **MR. THOMAS:** We have -- no, we have to  
24                  provide more.

25                  **MS. JONES:** Okay.

1                   And, again, funding seems to be the primary  
2                   issue for you to prevent that from happening?

3                   **MR. THOMAS:** I'd hate to be sitting here as  
4                   a bellyacher about funding because, quite frankly, some of  
5                   the money that we have in education now is some of the best  
6                   they've ever had in my nearly 30 years as an educator.

7                   What I would say that we have to understand  
8                   is, often money that is allocated to boards of education,  
9                   you've heard of sweated or sent down with a specific  
10                  purpose. Some of the things that we're talking about here  
11                  today would come into the discretionary side of what a  
12                  director could do.

13                  And I guess what I'm saying as a Director of  
14                  Education, I'd like more -- perhaps more funds -- although  
15                  we get a lot of funds, don't get me wrong -- I think with  
16                  the ability to be more discerning in how it might serve a  
17                  community would help me out to have a non-sweated amount  
18                  that would give me discretion to perhaps deal with local  
19                  issues.

20                  **MS. JONES:** Have you had meetings,  
21                  specifically say with the CAS director or even the chief of  
22                  police or even someone with the Crown Attorney's office, to  
23                  discuss alternative methods of training that may not have  
24                  to involve funding, that could actually be a free resource?

25                  **MR. THOMAS:** I've enjoyed a good

1 relationship with many chiefs of police because you can see  
2 from my 27 jurisdictions I serve, I meet with them  
3 regularly. And I think all of us would agree that we have  
4 to keep really good lines of communication open with one  
5 another and that the ongoing training that we have to have  
6 would be times that we could do mutual training.

7 If you're going to train some of your CAS  
8 staff, why wouldn't you train some of our principals? If  
9 you're training some of our -- and we also do this for  
10 police service work. We'll have officers being trained  
11 right alongside principals and we enjoy a good working  
12 relationship with our police services board, particularly  
13 here in Cornwall.

14 **MS. JONES:** So you have then tapped into  
15 possibly free resources that already exist or expertise and  
16 knowledge existing in the Cornwall community?

17 **MR. THOMAS:** We have and I think there's  
18 more room to grow.

19 **MS. JONES:** If we look at the training here  
20 as well, it seems to be focussing specifically on the  
21 teaching staff or the principals, vice-principals, et  
22 cetera. What about training for volunteers?

23 **MR. THOMAS:** It's an area that -- our  
24 training for volunteers is -- although we have a  
25 comprehensive police screening -- so for our training with

1 volunteers more or less has to do to work with people in  
2 your building.

3 The aspect of training volunteers to  
4 identify abuse or child sexual abuse is not on our radar  
5 screen right now.

6 **MS. JONES:** Who's responsible to design and  
7 deliver any sort of training?

8 **MR. THOMAS:** We would be. If ---

9 **MS. JONES:** When you say "we", is there a  
10 specific person?

11 **MR. THOMAS:** No, the school board would have  
12 to determine where that would go and which department that  
13 would line up and in a large student services department, I  
14 could see that going there.

15 **MS. JONES:** But is there a specific person  
16 designated within the Board to oversee this specific area  
17 of training?

18 **MR. THOMAS:** Yes, we have chief  
19 psychologists who play -- and social workers who play a key  
20 role and that would come under our associate director's  
21 portfolio.

22 **MS. JONES:** So is it the associate director  
23 then that oversees the training?

24 **MR. THOMAS:** The person -- well, no he or  
25 she in that role would play a significant role identifying

1 needs and then organizing with their department the special  
2 education, the -- and the type of PD that would be  
3 professional that would be looked after.

4 **MS. JONES:** So at this stage, then -- I just  
5 want to get your evidence clear -- you don't actually have  
6 a specifically designated person to look at the training as  
7 we've described here?

8 **MR. THOMAS:** We have -- no, our  
9 psychologists are very involved in training, particularly  
10 our new principals and in our orientation sessions, putting  
11 those packages together, but as I said, we could do more.

12 **MS. JONES:** Is there a course training  
13 standard or curriculum?

14 **MR. THOMAS:** There is different -- but not a  
15 course standard, no.

16 **MS. JONES:** And who monitors the training?  
17 How is it monitored?

18 **MR. THOMAS:** It's monitored through our  
19 departments. In fact, all of our training, the -- we would  
20 sign off if the person's had so many hours, which is a  
21 critical piece, that a person shows up at one of our  
22 training centres, they sign in and sign out, then we know  
23 how many hours that they've had.

24 But, no, we don't do an assessment to see  
25 did they get it, but we do know that they were there.

1                   **MS. JONES:** Thank you.

2                   If we could just go to the next page,  
3 please, Recommendation 61.2. It states:

4                   "The Government of Ontario bears the  
5 responsibility of ensuring the  
6 availability of these financial  
7 resources."

8                   And, again, we're talking about training  
9 resources. And the response from yourself is:

10                   "To the Board's knowledge, there is no  
11 specific funding provided."

12                   **MR. THOMAS:** Well, we have funding provided  
13 for psychologists and social workers and they certainly --  
14 they have very important roles to play in this particular  
15 area as you go through -- as we go through. So no, we get  
16 significant amount of money to ensure that we have people  
17 who know what they're doing with young men and young women.

18                   **MS. JONES:** But with respect to here, it  
19 says, "There is no specific funding provided". What are  
20 you referring to there?

21                   **MR. THOMAS:** What I'm saying there is that  
22 there's -- as I said earlier in my testimony, if something  
23 comes to a -- saying you will do this, we have nowhere to  
24 my knowledge any funding that comes out sweated in this  
25 particular direction for us to use.

1                   **THE COMMISSIONER:** I'm sorry, you keep using  
2                   -- the word sweater?

3                   **MR. THOMAS:** Well, it happens for example we  
4                   will get -- we'll get a large infusion of money. It says  
5                   and this is to be used for junior kindergarten.

6                   **THE COMMISSIONER:** Right.

7                   **MR. THOMAS:** And so they're looking at every  
8                   cent, and now with the modern technology they can see where  
9                   every cent -- or we'll receive \$20 million for textbooks.

10                  **THE COMMISSIONER:** Right.

11                  **MR. THOMAS:** So you cannot say well, we'll  
12                  take those science texts, we really don't need them, we're  
13                  using our computers, what we'll do is we'll apply this  
14                  money ---

15                  **THE COMMISSIONER:** So envelopes?

16                  **MR. THOMAS:** Yeah, envelopes is good. I  
17                  call it sweaters but ---

18                  **THE COMMISSIONER:** Sweaters, okay.

19                  **MR. THOMAS:** --- envelopes is absolutely  
20                  appropriate.

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

22                  **MR. THOMAS:** And sometimes it's a cavalier  
23                  jacket.

24                  **MS. JONES:** Could we go to Recommendation 62  
25                  and the heading there is "Screening of Applicant Teachers".

1 And in Recommendation 62, it states:

2 "School board policies and protocols  
3 should specifically address the  
4 screening of applicant teachers in  
5 conformity with the recommended  
6 procedures that follow."

7 And then 63 states:

8 "A criminal and disciplinary record  
9 check should be performed with respect  
10 to every applicant for a teaching  
11 position, regardless of whether the  
12 applicant is seeking first-time  
13 employment or a transfer from another  
14 school, district, province or country.  
15 School boards must also verify that the  
16 applicant is a member in good standing  
17 of the Ontario College of Teachers."

18 In the response, it states that -- without  
19 reading the whole paragraph -- it does state specifically  
20 that it does include school bus drivers or driving  
21 instructors and that the Ministry of Transportation check  
22 is the only requirement by the board.

23 Does the Ministry of Transportation checks  
24 look at things like beyond criminal driving convictions?  
25 In other words, does it always look at criminal records?

1                   **MR. THOMAS:** In this particular area as I  
2 speak to you, we're actually getting even tighter and  
3 better in this area. In fact, we work with our bus  
4 company, the operators work with us, and we already do  
5 police screening in the sensitive areas.

6                   But we're also moving to something we have  
7 with all of our employees that also every -- and we'll have  
8 terms with -- that every so often even every one of us to  
9 go to declare that we continue to be without a criminal  
10 conviction. And this is an area that we're moving in now.

11                   **MS. JONES:** So it sounds like self-  
12 declaration is what you're relying on?

13                   **MR. THOMAS:** No, no, it was a criminal --  
14 it's criminal record check for -- we have for all of the  
15 people who work for us and we have it also for all of the -  
16 - our volunteers who work in our schools and all of the  
17 groups and -- that come to work in our schools, whether  
18 it's delivery people, whatever. They have to hit a minimum  
19 standard through our HR department.

20                   **MS. JONES:** So then you do move beyond the  
21 recommendation here.

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

23                   **MS. JONES:** And you do verify that for  
24 school bus drivers.

25                   **MR. THOMAS:** And actually I will give credit

1 to the Commission. Because of our work in this, we're  
2 actually even going deeper to other stakeholders we work  
3 with us, asking for ongoing continued declarations that you  
4 continue to be in good standing.

5 **MS. JONES:** Thank you.

6 If we could please go to Recommendation 70,  
7 which is on page 19. There are a variety of portions under  
8 70. Recommendation 70 looks at defining sexual misconduct  
9 in school board policies, and 70.1 states:

10 "The codes of conduct that define and  
11 explain sexual misconduct outlined  
12 below should be contained in school  
13 board policies and protocols. These  
14 policies should incorporate the minimum  
15 standards of conduct that apply across  
16 Ontario and as may be reflected in the  
17 College's Code of Ethics but may yet  
18 impose higher standards of conduct to  
19 address local concerns or  
20 circumstances."

21 The next section states:

22 "No school employee or volunteer shall  
23 engage in sexual misconduct. Sexual  
24 misconduct is 'offensive conduct of a  
25 sexual nature which may affect the

1 personal integrity or security of any  
2 student or the school environment'."

3 And then a third part is:

4 "'Sexual misconduct' as a phrase  
5 includes but is not limited to:  
6 Sexual abuse (a) Conduct which would  
7 amount to sexual interference, an  
8 invitation to sexual touching, sexual  
9 exploitation, sexual exploitation of a  
10 person with a disability, an indecent  
11 act or exposure, or sexual assault or  
12 other crime which may affect the  
13 personal integrity or security of any  
14 students or the school environment.  
15 Sexual harassment (b) Objectionable  
16 comments or conduct of a sexual nature  
17 that may affect a student's personal  
18 integrity or security or the school  
19 environment. These may not be overtly  
20 sexual but nonetheless demean or cause  
21 personal embarrassment to a student  
22 based upon the student's gender.  
23 Sexual relationships generally (c) Any  
24 sexual relationship with a student or  
25 with a former student under the age of

1 18 and any conduct directed to  
2 establishing such a relationship."

3 With respect to these definitions of sexual  
4 misconduct within the school boards, how do teachers  
5 practically access school board policies which would  
6 include those types of definitions?

7 **MR. THOMAS:** We have a school board policy  
8 in every one of our schools and in every one of our  
9 principal's office and in all of the offices of our  
10 schools. But probably the number one source now is through  
11 our board website. And we have hundreds of hits on our  
12 board website in these particular areas.

13 **MS. JONES:** And if a teacher or someone  
14 accessing your web page has a question about these  
15 intricacies of these frankly legal definitions; is there  
16 somebody that they can contact?

17 **MR. THOMAS:** Yes. In many cases, they will  
18 speak with their principal, and their principal would talk  
19 with our HR department. Or they would talk to their  
20 federation presidents and local people to talk about what's  
21 the interpretation and what does this mean et cetera.

22 **MS. JONES:** And is there anybody in Cornwall  
23 specifically that's dedicated to answering questions  
24 concerning these areas?

25 **MR. THOMAS:** We have a superintendent here

1 in Cornwall. We also -- each of our principals would be  
2 given a responsibility of answering these questions and I  
3 would believe that every one of them could.

4 **MS. JONES:** Now, in the Recommendation 71,  
5 there's a further definition of what's considered  
6 unacceptable conduct, and just to read out 71.1:

7 "Codes of conduct contained in school  
8 board policies and protocols should  
9 address activities that, standing  
10 alone, may not constitute sexual  
11 misconduct but should nonetheless be  
12 prohibited or discouraged. Policies  
13 should incorporate the minimum  
14 standards of conduct that apply across  
15 Ontario and as may be reflected in the  
16 College's Code of Ethics but might  
17 impose more specific rules to address  
18 local concerns or circumstances."

19 And then the next recommendation lists  
20 specific sorts of considerations that should be looked at  
21 if you're concerned about the propriety of certain  
22 activities.

23 I'm just wondering, with regards to these  
24 particular further definitions of unacceptable conduct,  
25 does the board have any policies that address local, i.e.

1 Cornwall, concerns?

2 **MR. THOMAS:** Again, Cornwall makes up one  
3 jurisdiction in the Upper Canada District School Board.  
4 And our board policy would be written for every single  
5 jurisdiction of the Upper Canada District School Board.  
6 And our professional advisory, through the Ontario College  
7 of Teachers and through the other governing bodies of  
8 different groups, would be -- would play a major role in  
9 this.

10 **MS. JONES:** If we look at the next  
11 recommendations, Recommendations 72 and 73, they're headed  
12 "Receiving an Initial Complaint". Seventy-two (72) states:

13 "School employees should be trained on  
14 how to detect the warning signs of  
15 sexual misconduct and, further, how to  
16 respond to disclosures of sexual  
17 misconduct."

18 The board's response is that:

19 "The board does not provide training  
20 regarding detecting warning signs of  
21 abuse. Resources are a factor."

22 And then, "See previous Recommendation  
23 49.2." Could you please explain this further?

24 **MR. THOMAS:** Again, I come to you with a  
25 very high level of training in child sexual abuse from the

1 Metropolitan Child Abuse Task Force in Toronto. And that  
2 is a comprehensive training program that talks about the  
3 nuances of observing children, the traits of a child who  
4 would be sexually abused, et cetera and so forth.

5 And again, this is very, very expensive; not  
6 that it shouldn't be done but it's something that you'd  
7 have to have specifically skilled trained people to work  
8 with and we do not have those people working for us.

9 In Eastern Ontario, as you may understand,  
10 it's very difficult to get a doctor, let alone a child  
11 psychiatrist et cetera, and these are things that we have  
12 to advocate for. And again, earlier as you said that I  
13 play a pertinent role in advocating for that.

14 **MS. JONES:** With respect to Recommendation  
15 72, I believe that you responded to the first half of that,  
16 and that is train on how to detect the warning signs. But  
17 the second part of that recommendation is how to respond to  
18 disclosure, so presumably a child has said these things  
19 have happened.

20 **MR. THOMAS:** That one -- I'm sorry.

21 **MS. JONES:** Is that also included in your  
22 response that you haven't provided training on that?

23 **MR. THOMAS:** No, no. That particular one I  
24 feel very strong about. That comes as a part of the  
25 address. If a child discloses to a teacher, to an EA, to a

1 principal, to a superintendent, to myself, they have a  
2 clear obligation under the Act to report. And the teacher  
3 -- not only does the teacher have to report; the teacher  
4 does not have to go to the principal and say that the  
5 teacher has no obligation, he or she, to report themselves.  
6 That part is well-known.

7 The part I referred to that is more  
8 difficult is understanding the uniqueness of child sexual  
9 abuse and what are the factors and the nuances of that.

10 **MS. JONES:** So just to be clear, because it  
11 doesn't say that in this document though, you are satisfied  
12 that your staff are trained adequately to respond to these  
13 initial disclosures?

14 **MR. THOMAS:** I think that if a child or an  
15 adolescent discloses to a teacher in our system, the  
16 teacher would know that they should right away phone the  
17 Children's Aid Society and that -- or phone the police so  
18 that the Children's Aid Society is contacted, and that they  
19 should probably, to support themselves, talk to the  
20 principal but talking to your principal alone is not  
21 enough.

22 **MS. JONES:** What about volunteers at the  
23 school and people like school bus drivers? Are you dealing  
24 with that same confidence?

25 **MR. THOMAS:** No. This is a piece that we

1 have to become better at and to sort -- but we also know  
2 from a child abuse to attention that a child does not  
3 disclose to someone unless they trust them.

4 **MS. JONES:** The next recommendation:

5 "School board policies and protocols  
6 should contain basic do's and don'ts  
7 that should guide such situations."

8 And you state:

9 "The board relies on the board protocol  
10 with the Children's Aid Society and the  
11 Ontario College of Teachers  
12 professional advisory."

13 So how does your staff know the do's and  
14 don'ts? Is there a document actually outlining this?

15 **MR. THOMAS:** We have issues -- we have these  
16 types of things in teacher handbooks that are prepared each  
17 year. In fact a lot of those are being organized now for  
18 the following year and we'll have those protocols in there.  
19 We'll also have the phone numbers of our local Children's  
20 Aid Society and other service groups to support families  
21 that would all be organized in that particular booklet.

22 **MS. JONES:** Thank you.

23 **MR. THOMAS:** I believe also we're putting  
24 those in our volunteer handbook as well.

25 **MS. JONES:** If we go to the next page, page

1 22, this next section deals with the topic of sexual abuse  
2 of students under the age of 16. In 75.1 there's a  
3 description of the types of activities which must be  
4 reported immediately and there's a duty to report, and  
5 that's outlined.

6 I'm looking at 75.2 and it states:

7 "Every school employee and volunteer  
8 has this obligation."

9 You may have answered this already but are  
10 you satisfied that every school employee and volunteer is  
11 aware of the duty as outlined in 75.1?

12 **MR. THOMAS:** We have made this a priority  
13 that you recognize your duty to report.

14 **MS. JONES:** In 75.3, it states:

15 "Failure to report may constitute an  
16 offence under the *Child and Family*  
17 *Services Act* and, for a teacher, may  
18 also constitute professional  
19 misconduct."

20 It is unclear whether this had actually been  
21 implemented or not because the response is the Board's  
22 protocol identifies a teacher's obligation, but has that  
23 been implemented; that particular recommendation?

24 **MR. THOMAS:** Yes.

25 **MS. JONES:** If we look at 75.6, it states:

1                    "The duty to report applies even where  
2                    information is acquired in confidence  
3                    or second hand."

4                    And the protocol that you've described here  
5                    that your Board has adopted, states that it identifies  
6                    issues regarding requests for confidentiality and the duty  
7                    to report that is more important. Does that encompass  
8                    reporting information that is second hand?

9                    **MR. THOMAS:** Yes.

10                   **MS. JONES:** Thank you.

11                   Now, if we look at the next recommendation,  
12                   it deals with sexual abuse of students 16 or over; the  
13                   previous was 16 and under, this is 16 and over; and in  
14                   Recommendation 76, again, there's a description there of  
15                   the types of incidences that requires a teacher or  
16                   volunteer or a school employee to actually make a report  
17                   that the -- the law requires it, and would you agree that  
18                   the way that it's described there that there's an  
19                   expectation that abuse involving students 16 and older will  
20                   be required, but it doesn't necessarily say that the  
21                   reporting is required.

22                   **MR. THOMAS:** Again, the Ontario College of  
23                   Teachers, which we are members of and which I'm a member,  
24                   would -- would state that I would have a duty to report.  
25                   And we -- and that as the CEO, I would demand that people

1 would be reporting here.

2 MS. JONES: Would you agree it doesn't seem  
3 to be as clear cut as for students under the age of 16?

4 MR. THOMAS: I agree with you.

5 MS. JONES: But are you satisfied that you,  
6 as the Director, have communicated that there are actually  
7 -- according to you anyway -- there's an understanding that  
8 there is a requirement to report?

9 MR. THOMAS: I have stated that publicly,  
10 but I will say after our -- April, we're doing significant  
11 training in this in April. This will be even more clear  
12 and -- with all of our senior principals and all of our  
13 staff.

14 MS. JONES: If a teacher has a query as to  
15 whether or not there is the duty to report, who would that  
16 person ask?

17 MR. THOMAS: Well, I think the vast majority  
18 of teachers would talk to their principal and, at that  
19 particular time, I sincerely hope that the principal would  
20 understand their duties as a college member professional  
21 act that they have to report.

22 MS. JONES: Thank you.

23 If we go to page 24 and we look at  
24 recommendation 79 and that topic there is sexual misconduct  
25 or related behaviour that is not abuse. And it starts off

1 with 79.1:

2 "Every school employee or volunteer has  
3 a duty to students of any age to  
4 intervene to prevent them from becoming  
5 victims of sexual misconduct."

6 It also states:

7 "Where a school employee or volunteer  
8 knows or reasonably suspects that a  
9 student has been sexually harassed or  
10 has been the victim of sexual  
11 misconduct short of abuse, he or she  
12 must report the suspicion forthwith and  
13 the information upon which it is based  
14 to the principal or the principal's  
15 designate. Policies and protocols  
16 should also provide for a further  
17 reporting chain from the principal or  
18 the principal's designate to a  
19 superintendent to a director and to the  
20 board depending here upon the nature of  
21 the conduct."

22 And lastly:

23 "Such policies may reflect that some  
24 behaviour can be addressed informally  
25 and resolved through discussion with

1 the teacher or teacher counselling."

2 It appears that when you look at the Board  
3 response here, that your protocol addresses situations  
4 where employees are suspected of abuse, but doesn't say  
5 whether or not the protocol covers situations where  
6 volunteers or other people affiliated with the school are  
7 suspected of abuse.

8 **MR. THOMAS:** It my opinion that will be  
9 clarified even more in staff development that it covers  
10 both.

11 **MS. JONES:** That it does cover both?

12 **MR. THOMAS:** It will cover -- it does cover  
13 both and -- and people will be -- it will be less confusing  
14 after more professional development.

15 **MS. JONES:** Thank you.

16 If we could please go to Recommendation 84,  
17 which is on page 27, and the topic of Recommendations 84 to  
18 86 is investigating sexual misconduct.

19 And Recommendation 84 essentially looks at  
20 the school board policies -- the recommendations that  
21 school board policies should specifically address how and  
22 when internal investigations are to be conducted.

23 "As well, school board protocols or  
24 inter-agency protocols to which school  
25 boards are a party, should address the

1 interaction between boards and outside  
2 investigations. Matters that should be  
3 addressed include, the relative roles  
4 and joint participation of the  
5 Children's Aid Society and police in  
6 the conduct of investigations of sexual  
7 abuse; b) the factors affecting the  
8 timing of the investigation and  
9 internal interviews; c) the factors  
10 affecting the location of the  
11 interviews."

12 And then there's a whole list of other, sort  
13 of, factors, whether the parent will be contacted, whether  
14 there's special needs for students with disabilities, the  
15 involvement of the parents, the obligation to inform  
16 Children's Aid Society. So the whole -- whole host of  
17 recommendations there that outline very specific criteria  
18 that should be addressed there.

19 And I'm wondering, in this particular area,  
20 the very first sentence you put for the response to the  
21 investigation of sexual misconduct is that the Board does  
22 not have an internal policy directing investigations.

23 "The investigations and their form and  
24 scope are the responsibility of human  
25 resources in consultation with legal



1 protocol with the Children's Aid Society addresses that  
2 issue. The only one that's missing, actually, that  
3 particular designation, is 84(j) that states:

4 "The obligation of school boards to  
5 contact the CAS or police if a student  
6 complainant transfers to another school  
7 or board."

8 That's actually left blank. Is there a  
9 response or a protocol concerning that specific issue?

10 **MR. THOMAS:** You'll have to give me ---

11 **THE COMMISSIONER:** Page 28.

12 **MR. THOMAS:** --- explain it a bit more.

13 **MS. JONES:** I'm sorry, on page 28.

14 **MR. THOMAS:** Yeah, my numbers are different

15 ---

16 **THE COMMISSIONER:** Okay.

17 **MR. THOMAS:** --- but you're at ---

18 **THE COMMISSIONER:** J.

19 **MS. JONES:** J.

20 **MR. THOMAS:** J, okay, good.

21 **MS. JONES:** Starting with "The obligation to  
22 contact".

23 **MR. THOMAS:** Yeah.

24 Again, we work with the Children's Aid  
25 Society so that we have a -- and this is very important to

1 us -- the fact that we deal with so many Children's Aid  
2 Societies over Eastern Ontario and broader -- is that if we  
3 have a concern of -- for a student and they move to another  
4 jurisdiction is that we work very closely with the  
5 Children's Aid Society to say, you know, "Charlie is moving  
6 to Kingston. This is a concern of ours." And -- and I've  
7 found -- my personal perspective at working with two  
8 different school boards in three different areas of the  
9 province, that the Children's Aid Society has real  
10 procedures to -- to track children who are at risk.

11 **MS. JONES:** So is that an oversight then on  
12 just providing us that information? So is it also in  
13 protocol with the Children's Aid Society?

14 **MR. THOMAS:** Well, we worked with the  
15 Children's Aid Society on this one and it -- it might be an  
16 oversight.

17 **MS. JONES:** Okay.

18 **MR. THOMAS:** It's a ---

19 **MS. JONES:** Now, with respect to (o):

20 "When a suspected employee or volunteer  
21 should be notified that an allegation  
22 has been made against him or her."

23 Again, there a diversion from the Board  
24 protocol and the Children's Aid Society. It states here  
25 that your response is:

1 "This issue is addressed by the human  
2 resources department on a case-by-case  
3 basis and dependent on the  
4 investigation of federation and union  
5 involvement.

6 Does that mean then that the Board does not  
7 have a policy in place?

8 **MR. THOMAS:** Yeah, we have a policy in  
9 place. What we would do at that particular time in our HR  
10 department is that we would work with the investigation  
11 organization, whether it's the CAS or the police, and we  
12 would engage our own legal counsel at that particular time  
13 and what would happen there is that -- not to duplicate or  
14 create difficulty for a victim -- is that very often we  
15 would work with the Children's Aid Society, allow them to  
16 do their investigation, their questioning, or the OPP or  
17 the Cornwall Police and then -- so not to traumatize a  
18 family where we would have the opportunity to take witness  
19 statements and with the permission.

20 We wouldn't really ask the same questions to  
21 a victim, but we would work with our colleagues at the CAS  
22 and the police services to ensure that -- well, the  
23 information that they got would help us with our  
24 investigation and what we were to do with an employee or  
25 volunteer that was working in our system.

1                   **MS. JONES:** If we look at 85.1, which is our  
2 page 29 as well, it states:

3                                 "School board policies and protocols  
4                                 should specifically address how and  
5                                 when internal investigations would be  
6                                 conducted and by whom."

7                   And the response is:

8                                 "The Board's practice is to have Board  
9                                 investigations managed by the Human  
10                                Resources Department in consultation  
11                                with legal counsel."

12                   There's a couple of time where you use the  
13 phrase "the Board's practice". When you use that phrase,  
14 does that imply that there are no protocols or is it just  
15 "This is typically what we do"?

16                   **MR. THOMAS:** This is typically what we do  
17 and it is our Board practice that, case by case, that we  
18 would work with our Police Services Board and the CAS on  
19 this type of investigation.

20                   **MS. JONES:** So it has a practice but no  
21 policy in place?

22                   **MR. THOMAS:** I don't have all of the  
23 policies memorized here, but I know we have many protocols.  
24 What the practice is here is it's by each case, and we  
25 don't like to have too many, but sadly we do, that we would

1 work with our CAS and our police services to ensure that  
2 the investigation was moving all right and that due process  
3 and procedural fairness was followed for all parties.

4 **MS. JONES:** If we go to Recommendation 90,  
5 please, which is on page 30, the topic there is counselling  
6 or therapy and it states that:

7 "The school boards have the  
8 responsibility to ensure that students  
9 who disclose sexual misconduct in the  
10 school setting have access to  
11 professional counselling or therapy."

12 And your response is that:

13 "There actually is counselling offered  
14 to students who disclose abuse."

15 Is there any counselling available to family  
16 members of abused students as well?

17 **MR. THOMAS:** Yes.

18 **MS. JONES:** Okay. If we look at  
19 Recommendation Number 92, which is on the next page, Madam  
20 Clerk; Recommendations 92 to 95 have a topic, "Actions  
21 Respecting the Suspected Employee or Volunteer". And in  
22 Recommendation 92 it states:

23 "School board policies and protocols  
24 should specifically address the actions  
25 to be taken by them pending a

1 determination whether sexual misconduct  
2 has occurred."

3 The response that you have is:

4 "The Board practice is to evaluate what  
5 steps should be taken in consultation  
6 with legal counsel."

7 Again, does that mean there's no actual  
8 policy in place?

9 **MR. THOMAS:** This is a practice.

10 **THE COMMISSIONER:** Can I go back to Number  
11 90, sir?

12 **MR. THOMAS:** Yes.

13 **THE COMMISSIONER:** What if in the case of  
14 historical sexual abuse, in the sense that someone that,  
15 five years down the road says, "Well, when I was in high  
16 school, I was abused by this professor, by this teacher in  
17 this classroom," so in the setting, would you provide  
18 counselling and therapeutic services for that student?

19 **MR. THOMAS:** Yes, we have and we're doing it  
20 right now.

21 **THE COMMISSIONER:** Good. Thank you very  
22 much.

23 **MS. JONES:** So we'll just go back to my  
24 question with respect to school board policies and  
25 protocols to specifically address the actions taken pending

1 a determination whether sexual misconduct has occurred, my  
2 question to you was you've outlined a practice there, but  
3 is there a policy in place concerning that specific ---

4 **MR. THOMAS:** Not to my knowledge.

5 **MS. JONES:** Thank you.

6 Again, Number 95:

7 "School board policies and protocols  
8 should specifically state that the  
9 Board needs to make a determination  
10 whether sexual misconduct has occurred,  
11 whether or not any criminal charges  
12 have resulted in findings of guilt."

13 Your response is:

14 "Where an allegation has been made  
15 against a Board staff member, it is the  
16 practice of the Board to make a  
17 determination regarding the alleged  
18 inappropriate conduct that has  
19 occurred, which may include a review of  
20 trial transcripts, in the case of  
21 acquittal, and investigation notes  
22 where charges have not been laid."

23 I presume that you have a relationship then  
24 with the police service to have access to that material?

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

1                   **MS. JONES:** And again, it seems to be the  
2 practice of the Board. Is there a policy in place dealing  
3 with that?

4                   **MR. THOMAS:** No.

5                   **MS. JONES:** In Recommendation 96, it is  
6 highlighting a communication plan as a topic and the  
7 recommendation is that:

8                                 "School board policies and protocols  
9                                 should specifically create a  
10                                communication plan subsequent to  
11                                disclosure of alleged sexual misconduct  
12                                by school employees or volunteers.  
13                                Such a plan would address the following  
14                                matters: ..."

15                   And it would state:

16                                "...a) what information will be  
17                                communicated when and by whom; b)  
18                                respect for the privacy rights of  
19                                affected parties to the extent  
20                                possible; c) the need for factual  
21                                accuracy and fairness to all affected  
22                                parties; d) the desirability of  
23                                affirming or supporting students who  
24                                disclose sexual misconduct while  
25                                maintaining the presumption of



1 separate file and for the location of  
2 that file."

3 And with regards to your response there,  
4 it's unclear whether the recommendation has actually been  
5 implemented, and I'm wondering if -- it seems to be that  
6 there's no policies in place to ensure the recommendation  
7 that edited information be kept separately from unedited  
8 information. Can you please expand on that?

9 **MR. THOMAS:** Yeah. We adhere to the FOI  
10 procedures very strictly in this particular area and the  
11 protection of documents and the protection of identity of  
12 students, staff.

13 **MS. JONES:** The last area that I wish to  
14 canvass is Recommendation 98 which deals with resignation  
15 and full disclosure. In 98.1, it states:

16 "The school board policies and  
17 protocols should specifically address  
18 resignations and the need to provide  
19 full and frank references upon request.  
20 The components of such a policy are  
21 contained in the following  
22 recommendations."

23 Your response is that:

24 "The Board's practice is to provide a  
25 full reference or no reference,



1                   So I'm asking, by providing no reference for  
2                   a particular teacher; is that in compliance with the full  
3                   and frank reference requirement that seems to be in the  
4                   recommendation?

5                   **MR. THOMAS:** From the Robins Report, I'm not  
6                   so sure what technically he was trying to get at there.  
7                   You'll have to help me.

8                   **THE COMMISSIONER:** Well ---

9                   **MR. THOMAS:** Because we make full disclosure  
10                  to the College of Teachers and at that particular time, if  
11                  you have your licence removed, you can't teach in Ontario  
12                  in a public institution. So unless I'm missing -- the full  
13                  and frank would be we would give the full information to --  
14                  and no reference would be -- a person would have to take  
15                  that upon themselves.

16                  **THE COMMISSIONER:** But I guess we're looking  
17                  at -- assuming for a moment that somebody has resigned --  
18                  and I don't know what factual situation I can give you --  
19                  but under a cloud of suspicion, I guess, goes off to  
20                  Northern Ontario, applies for a job. They phone you. And  
21                  so, you know, as an employer you have certain legal  
22                  responsibilities and liabilities that could attach.

23                  **MR. THOMAS:** Yes.

24                  **THE COMMISSIONER:** So I guess what Ms. Jones  
25                  is saying, well, if you say no references, is that a code

1 word for the people who are asking for the reference that  
2 you shouldn't hire this person?

3 **MR. THOMAS:** I guess I understand a little  
4 more where you're going with this one. If I got no  
5 reference, I would then ask the person who was applying,  
6 "Why did your previous place not supply us with a  
7 reference?" And I would go into further detail with them,  
8 and then I would ask them the critical question, "Is there  
9 some reason why we should not employ you?" and so forth.  
10 So we would go through, and that's what I believe most  
11 human resources departments would be involved in.

12 And we would, of course -- we do not hire a  
13 teacher unless they go through the police screening and the  
14 sensitive area, and also that they're in good standing with  
15 the College of Teachers, which is, I think a major benefit  
16 to our particular profession.

17 **THE COMMISSIONER:** I guess what we're, you  
18 know, looking at is the old -- what may have been in the  
19 past is, "Listen, you're touching students; you resign and  
20 we won't say anything, okay?"

21 **MR. THOMAS:** It never happened in my watch.

22 **THE COMMISSIONER:** No. No.

23 **MR. THOMAS:** Ever.

24 **THE COMMISSIONER:** I know, I know. But  
25 that's what -- and that's why Ms. Jones is probably asking

1           you about this "No reference."

2                       **MR. THOMAS:** A "No reference," to me, is a  
3           major sign that you'd better ---

4                       **THE COMMISSIONER:** All right.

5                       **MR. THOMAS:** --- be careful.

6                       **THE COMMISSIONER:** Okay.

7                       **MS. JONES:** But you're also assuming perhaps  
8           a couple of things.

9                               First of all, that the person who's asking  
10           for the reference and getting a "No reference" answer  
11           thinks the same way that you do, and perhaps relying on  
12           self-disclosure of the applicant to explain why there's no  
13           reference being given.

14                               So, if we use the Commissioner's example, if  
15           there's a cloud of suspicion that there's been some sexual  
16           misconduct -- nothing proven, and no convictions -- in a  
17           criminal sort of a setting, the requirements to provide  
18           full and frank disclosure -- but you're -- you're  
19           recounting circumstances where "No references" is ---

20                       **MR. THOMAS:** No ---

21                       **MS. JONES:** --- is complying in a sense with  
22           this full and frank disclosure.

23                       **MR. THOMAS:** The Commissioner has also said  
24           we have other acts and rules and laws to follow, and we  
25           have to follow those, too, and go forth and -- as we go

1 through. And this particular one, I think, there's some --  
2 the person has a right to privacy, but we also have a right  
3 to protect our kids, and I think in this particular case we  
4 really started to understand that.

5 MS. JONES: In your answer, however, it  
6 sounds like the right to privacy is superseding the right -  
7 --

8 MR. THOMAS: No ---

9 MS. JONES: --- of protecting ---

10 MR. THOMAS: --- not at all.

11 MS. JONES: No?

12 MR. THOMAS: Not at all.

13 MS. JONES: Okay. In 98.2, it states:

14 "Personnel files of all employees must  
15 reflect the circumstances surrounding  
16 any resignations from employment  
17 relating to allegations of sexual  
18 misconduct. The content of these files  
19 should respect the confidentiality and  
20 privacy interests of students and  
21 informants."

22 And the Board response is:

23 "Personnel files contain information  
24 regarding circumstances of resignations  
25 where an investigation and/or

1 allegation has been made. Students'  
2 personal information is protected by  
3 the *Freedom of Information Act*."

4 And, again, I'm wondering if you could  
5 please explain if in fact you have implemented that  
6 recommendation as stated, as a practice or a policy.

7 **MR. THOMAS:** We've -- I'm not up to the real  
8 details on the policy piece, but we have implemented this  
9 piece in our practice of how our HR Department works.

10 **MS. JONES:** Thank you. I have the same  
11 question with regards to 98.3:

12 "Policies and protocols should  
13 specifically address the physical  
14 location and transfer of these  
15 personnel files, or the information  
16 contained therein, to an employee's new  
17 school or school board."

18 And your response is:

19 "The board's retention schedule and  
20 records management process applies to  
21 personnel files."

22 Again, it doesn't seem to have actually  
23 enunciated whether you're actually complying with that  
24 recommendation.

25 Have you complied with that?

1                   **MR. THOMAS:** Yes, we have.

2                   **MS. JONES:** Okay. And, lastly:

3                                "School boards should provide full and  
4                                frank references to prospective  
5                                employers upon request. No resignation  
6                                of any employee is believed secured by  
7                                agreement not to disclose facts  
8                                relating to allegations of sexual  
9                                misconduct to a prospective employer.  
10                              Policies and protocols may differently  
11                              address unfounded allegations."

12                   And your response states:

13                              "It is the Board's practice, where  
14                              allegations have been verified, not to  
15                              make an agreement to not provide such  
16                              information when a reference is  
17                              sought."

18                   I'm wondering, given that response, again  
19                   going back to the full and frank disclosure, if we go by  
20                   the example that was just given a few minutes ago, giving  
21                   no reference, does that comply with 98.4?

22                   **MR. THOMAS:** It's a -- it's partial. But,  
23                   again, we -- and a person who would be terminated by our  
24                   Board, the Ontario College of Teachers would be -- would be  
25                   a part of this, and their licence would be removed, and

1           that is -- and that is a protocol or a procedure that we  
2           have to follow, and we do follow.

3                       **MS. JONES:** So do you have a protocol in  
4           place that guarantees that no resignation of any employee  
5           will be secured by agreement not to disclose facts relating  
6           to allegations of sexual misconduct to a prospective  
7           employer?

8                       **MR. THOMAS:** We have -- we follow, again,  
9           the -- and I don't have it at my fingertips, but we follow  
10          this as a practice and a procedure.

11                      **MS. JONES:** Okay. Thank you very much.

12                      Those are my questions for you, Mr. Thomas.

13                      At this particular stage, we ask every  
14          witness for any recommendations you may have and if there's  
15          any impact that your participation in the Inquiry has had  
16          on you.

17                      You may have given that already in the  
18          previous time in your testimony, however, you're free to do  
19          so now as well, sir.

20          ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. THOMAS:

21                      **MR. THOMAS:** Well, I would like to talk  
22          about something I spoke of the last time I was at the  
23          Inquiry ---

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

25                      **MR. THOMAS:** --- and I spoke to counsel

1 about this, is that with the -- when I go back in my -- my  
2 career, the -- the Peterborough Child Abuse Prevention  
3 Program that we -- we brought forward, and we used  
4 exclusively the Metropolitan Toronto Child Abuse Task Force  
5 recommendations and training, was a powerful piece of  
6 teaching our teachers to be sensitive to the needs of their  
7 community, the needs of the young men and women and young  
8 boys and girls that they teach.

9 But, also, we found out when we did that,  
10 that the Robins' Report and all of the findings -- the  
11 statistical were -- were absolutely true, and, when we did  
12 the training, certainly we found out there were kids in  
13 need, families in need.

14 But we did find out, as I said earlier in my  
15 testimony, that if you ask the questions you must be  
16 prepared to have the resources and the personnel, because  
17 there's -- I believe there's nothing worse than knowing a  
18 need, and identifying a need, and then saying, "Sorry,  
19 we've identified it, but we can't somehow support that, and  
20 good luck."

21 And what we learned at that particular time,  
22 was that we did have to rely on the government at that  
23 particular time to support us in a -- in an important  
24 matter, and I learned that if the entire province was to --  
25 to take on such a -- it would help the safety and security

1 of all of our kids, but we probably don't have enough of  
2 the staff to do that type of thing, if we took it on.

3 And I spoke to the -- the group that's going  
4 to be leading the healing part of this. I know that any  
5 knowledge that I have gained, any expertise, that I'm  
6 prepared to share that with the Committee, because I think  
7 it's very important to move forward, that we've learned a  
8 long time ago that when children are to achieve in school,  
9 one of the first prerequisites is that they feel safe and  
10 that they can move forward and take the risks necessary to  
11 learn.

12 And so a safe, inviting environment for  
13 learning is -- is the most important thing that an  
14 educational system can provide, and I think that this  
15 Commission has already helped with that.

16 As you heard also in my testimony, Mr.  
17 Commissioner ---

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

19 **MR. THOMAS:** --- is that we have already  
20 started to review things, because we've taken the -- the  
21 mirror, and taken a look at ourselves, and say, "There are  
22 areas that we can improve at," and we're beginning to do  
23 those now.

24 And part of that will be some extensive  
25 training with our principals, but, more important, our

1 procedures, practices and protocols will be better because  
2 we're paying attention to what you're doing here in  
3 Cornwall. And we believe, in the long run, that it will be  
4 a better, safer and -- and happier community for kids if  
5 we, again, take the many recommendations that will come out  
6 of this Inquiry, and put them into practice.

7 **THE COMMISSIONER:** Thank you.

8 Can we check to see for cross-examination?

9 Mr. Strawczynski, how long do you think  
10 you're going to be?

11 **MR. STRAWCZYNSKI:** I'd estimate about  
12 15 minutes.

13 **THE COMMISSIONER:** All right.

14 Mr. Horn? Is gone.

15 Mr. Lee?

16 **MR. LEE:** Ten (10) minutes, perhaps.

17 **THE COMMISSIONER:** Yes. Mr. Chisholm?

18 **MR. CHISHOLM:** Ten (10), sir.

19 **THE COMMISSIONER:** We're running out of  
20 time. Mr. Thompson?

21 **MR. THOMPSON:** Approximately a half hour  
22 sir.

23 **THE COMMISSIONER:** A half hour? Okay.

24 Mr. Crane?

25 **MR. CRANE:** Perhaps five minutes, sir.

1                   **THE COMMISSIONER:** Mr. Carroll?

2                   **MR. CARROLL:** Less than the Attorney  
3                   General.

4                                   **(LAUGHTER/RIRES)**

5                   **THE COMMISSIONER:** All right, well ---okay.  
6                   Let's take a short break.

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

9                                   This hearing will resume at 4:50 p.m.

10                   --- Upon recessing at 4:39 p.m. /

11                                   L'audience est suspendue à 16h39

12                   --- Upon resuming at 4:50 p.m./

13                                   L'audience est reprise à 16h50

14                   **THE REGISTRAR:** This hearing is now resumed.  
15                   Please be seated. Veuillez vous asseoir.

16                   **THE COMMISSIONER:** I think, Mr.  
17                   Strawczynski, the thought of being cross-examined by you,  
18                   you may have scared the witness away.

19                   **MR. KEEL:** I think I saw him running in the  
20                   snow that way.

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

22                   **DAVE THOMAS, Resumed/Sous le même serment:**

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

24                   **STRAWCZYNSKI:**

25                   **THE COMMISSIONER:** Mr. Strawczynski?

1                   **MR. STRAWCZYNSKI:** Good afternoon, Mr.  
2                   Thomas.

3                   **MR. THOMAS:** Hello.

4                   **MR. STRAWCZYNSKI:** My name is Juda  
5                   Strawczynski and I represent a group called Citizens for  
6                   Community Renewal, which is an organization of concerned  
7                   Cornwall citizens, principally interested in promoting  
8                   institutional reform to ensure the protection of children  
9                   and justice for all.

10                   I have a few areas that I'd like to canvass  
11                   with you today, sir, and what I'm going to do is start by  
12                   going back to this document to cover off a couple of areas  
13                   of policy or procedure, and then I'll have a couple of  
14                   other questions with respect to some of the answers that  
15                   were provided to Ms. Jones.

16                   So I'd like to start within Exhibit 3393 at  
17                   page 23 -- 22 and 23. Ms. Jones took you to part of these  
18                   recommendations with respect to the guidelines ---

19                   **MR. THOMAS:** Excuse me, I have a different  
20                   numbering system.

21                   **MR. STRAWCZYNSKI:** I'm sorry.

22                   **MR. THOMAS:** If you can go by the numbers of  
23                   the Robins recommendations, I'll go straight to those.

24                   **MR. STRAWCZYNSKI:** Of course. Mr. Thomas,  
25                   it's Recommendation 76, which is with respect to sexual

1 abuse of students 16 or over.

2 MR. THOMAS: Thank you.

3 MR. STRAWCZYNSKI: And the response from the  
4 Board is in protocol form. And I notice that the response  
5 to this recommendation begins by stating:

6 "The Board's protocol requires that  
7 where a student is over 16 years old  
8 and has younger siblings, a report is  
9 to be made to the Children's Aid  
10 Society."

11 And then it goes on:

12 "When a student is over 16 and does not  
13 have younger siblings, it is the  
14 expectation that both the police and  
15 the Children's Aid Society will be  
16 contacted."

17 My question to start, sir, is whether in the  
18 first instance where there are siblings involved, whether  
19 it is also a requirement to contact the police?

20 MR. THOMAS: Yes.

21 MR. STRAWCZYNSKI: So that was just an  
22 inadvertent omission here?

23 MR. THOMAS: We always contact the police.  
24 We work with the CAS to do that.

25 MR. CHISHOLM: Sorry, just to interrupt, if

1       you look at the start of Recommendation 76, it starts out  
2       by saying:

3                       "Every person who has reasonable  
4                       grounds to suspect that a student 16  
5                       years of age or older has suffered or  
6                       is at risk of likely suffering one or  
7                       both of the following should forthwith  
8                       report the suspicion and the  
9                       information on which it is based to the  
10                      police."

11                     **THE COMMISSIONER:** There you go.

12                     **MR. STRAWCZYNSKI:** And I just wanted to get  
13       the clarity there, sir.

14                     I'll move on to 79.4, sir.

15                     **MR. THOMAS:** Right.

16                     **MR. STRAWCZYNSKI:** Which is within the area  
17       of sexual misconduct or related behaviour that is not  
18       abuse, and the recommendation here is that:

19                     "With respect to certain actions, some  
20                     behaviour can be addressed informally  
21                     and resolved through discussion with  
22                     the teacher or teacher counselling."

23                     And I'm wondering, sir, the response here  
24       from the Board:

25                     "In some cases, a principal could

1                                   caution a teacher following  
2                                   consultation with human resources staff  
3                                   practice."

4                                   My question, sir, is whether there would  
5                                   ever be a situation where a teacher needed to be cautioned  
6                                   but there would not be some sort of written documentation  
7                                   within either the teacher's file or the human resources  
8                                   file?

9                                   **MR. THOMAS:** Yes, there could be a place  
10                                   where there would be a caution -- a verbal caution.

11                                   **MR. STRAWCZYNSKI:** And the caution -- and  
12                                   that would be with respect to a caution related to some  
13                                   sort of sexual misconduct or related behaviour?

14                                   **MR. THOMAS:** If it was a sexual misconduct,  
15                                   it would have to be reported by protocol procedure law. I  
16                                   don't believe that the -- my read of the Robins there is  
17                                   that you might see something very early and say, "Whoa,  
18                                   that's not how we do business around here". It could very  
19                                   well be a gym class that goes on too long and there's just  
20                                   one person left with three or four kids and you say, "Hey,  
21                                   this is a situation where you're putting yourself at risk".

22                                   When you're counselling a student, you're  
23                                   one-on-one, it's good to have a door open. Those are the  
24                                   types of things that we'd be referring to.

25                                   **MR. STRAWCZYNSKI:** I'm just wondering, sir,

1           whether there is any consideration given to having some  
2           sort of written documentation of those sorts of cautions as  
3           well just in case they start to add up?

4                   **MR. THOMAS:** There are written protocols to  
5           follow and for principals to be on top of in those things  
6           as they go through in our counselling procedures and our  
7           working with students procedures.

8                   **MR. STRAWCZYNSKI:** I'm going to move on to  
9           Recommendation 81.1.

10                   And, sir, we talked about this earlier, I  
11           believe, where this is the -- or sorry, this is one that I  
12           don't think was discussed earlier. It's with respect to  
13           threats or reprisals. It says:

14                           "Policies and protocols should  
15                           specifically state that the school  
16                           board has the duty to protect anyone  
17                           from threats or reprisals from  
18                           disclosing, reporting or otherwise  
19                           providing information with respect to  
20                           alleged sexual misconduct."

21                   And the response from the Board is that:

22                           "The Board does not have a policy. If  
23                           a reprisal or threat occurs, the Board  
24                           will address it through human  
25                           resources."

1                   And, sir, I'm wondering why there's no  
2                   policy in place at this point with respect to how to  
3                   respond to threats or reprisals for reporting?

4                   **MR. THOMAS:** Not to be argumentative, but in  
5                   many cases you don't have a number of -- we don't go  
6                   through many allegations in the course of a year. In fact,  
7                   it's quite the opposite. We should have more in the course  
8                   of doing our business.

9                   And so what you have is sometimes more of a  
10                  quietness, and I don't think people -- we haven't had a lot  
11                  of instances where we've had reports and then there has  
12                  been reprisal. In fact, in my career I've not heard of a  
13                  single time.

14                  So often Board practice and protocol and  
15                  procedure follows a series of instances, and then that's  
16                  how it becomes a policy of the Board.

17                  And if we were to have -- right now our  
18                  practice is to support a person who has perhaps been an  
19                  advocate for a victim and so forth and would be to support  
20                  the person who has presented the disclosure to the police  
21                  or the Children's Aid Society.

22                  **MR. STRAWCZYNSKI:** You would agree with me,  
23                  sir, that it may help individuals who do need to report to  
24                  know that the School Board will support them and will take  
25                  strong action against individuals who may threaten them for

1 having made a report?

2 **MR. THOMAS:** Well, we have procedure in  
3 place to protect teachers against that type of behaviour.  
4 We have procedure on that, that you -- that's a harassment-  
5 free policy of our Board, that if a person is doing their  
6 job and they report something, they would be protected  
7 under our "Board Harassment Policy".

8 **MR. STRAWCZYNSKI:** So then for 81.1, do I  
9 take it, sir, then that the Board actually does have some  
10 policies that could address these issues?

11 **MR. THOMAS:** We have policies to protect  
12 teachers so they have a safe, inviting place to work, a  
13 harassment-free policy, yes.

14 **MR. STRAWCZYNSKI:** Do those policies also  
15 apply to volunteers?

16 **MR. THOMAS:** I don't know. It's a brand new  
17 area.

18 **MR. STRAWCZYNSKI:** I'm just going to move on  
19 to some other questions with respect to volunteer training.

20 It wasn't clear from some of the testimony  
21 earlier whether all of the training that is taking place  
22 for teachers or principals would also be taking place or  
23 provided to volunteers.

24 Are you aware, sir, whether there's regular  
25 training for volunteers within school boards to identify

1 the red flags for sexual abuse or how to handle a  
2 complainant should one come forward?

3 **MR. THOMAS:** We are really only beginning to  
4 take a look in this particular area. We have police  
5 screening of all of our volunteers. We have an individual  
6 school protocol to come in to deal with the behaviour and  
7 the conduct of a volunteer, but we have not begun to put  
8 procedures in place to help our volunteers recognize abuse.

9 **MR. STRAWCZYNSKI:** So at the moment, when  
10 someone volunteers for the Board, they go through the  
11 requisite screening and they have duties and could be  
12 stripped of their ability to serve as volunteers in certain  
13 cases, but at the moment we don't have any policies to  
14 assist volunteers in understanding historic or other sexual  
15 abuse?

16 **MR. THOMAS:** No, we don't.

17 **MR. STRAWCZYNSKI:** That is an area that  
18 you're hoping to move forward?

19 **MR. THOMAS:** It's an area that we would like  
20 to go with all of our volunteers. It's really relatively  
21 new to have our volunteers go through police screening and  
22 all of the things that -- that's still relatively new in  
23 this particular organization, and still with some  
24 reluctance. Some people feel, "Why do I have to go through  
25 this?" And we say it's because we're protecting our kids.

1                   **MR. STRAWCZYNSKI:** Do volunteers have to go  
2 through any sort of mandatory training before being let  
3 into schools presently?

4                   **MR. THOMAS:** Yes, there are some training,  
5 for example, to come to the school, and very often many of  
6 our volunteers are parents, and at the youngest of levels.  
7 Obviously that is the convenience, that you come in here  
8 and you don't talk to other neighbours about, you know,  
9 what another child is doing, and you're not going to take a  
10 look at report cards and report things of that nature. And  
11 this is another -- a new area that we should be cognizant  
12 of and aware of.

13                   **MR. STRAWCZYNSKI:** So given that there's  
14 already volunteer training taking place and that there are  
15 resources such as the CAS in the community, presumably it  
16 wouldn't be a particularly difficult issue in terms of  
17 financial resources to allow this training to proceed.

18                   **MR. THOMAS:** Any training costs that you'd  
19 be involved with, the -- what you'd have to do -- and I  
20 think I'm quite aware of is what the volunteers want to do,  
21 because the first thing is they volunteer. And then if  
22 they want to volunteer we say, "These are things you have  
23 to do," and this would be a part of, I guess, another level  
24 of saying too, "Well, was it really, really worth it?"

25                   I go back to our principals and talk about

1 this. If the Canadian Amateur Hockey Association thinks  
2 it's important, why shouldn't our schools think it's  
3 important? So that's my particular stance on this.

4 **MR. STRAWCZYNSKI:** Is there a particular  
5 timeline in mind that the board has for trying to bring in  
6 some sort of training for volunteers in this area?

7 **MR. THOMAS:** No.

8 **MR. STRAWCZYNSKI:** And you mentioned with  
9 reference to Recommendation 49.2 that there are serious  
10 resource issues which have constrained the board in the  
11 past and continue to constrain the board with respect to  
12 the prevention and early identification of sexual abuse;  
13 correct?

14 **MR. THOMAS:** No, those aren't my words. Let  
15 me go back and find them. I did say that we have some of  
16 the best funding we've ever had -- ever. We need  
17 discretion though in the resources that come down to say,  
18 "Here is a local Eastern Ontario issue, and we would like  
19 discretion within the significant amount of money that we  
20 get to do this type of thing."

21 The number of groups and agencies competing  
22 for time on the curriculum agenda is significant and if we  
23 determined that this was important, that I think it's  
24 important, then we have to find the resources within that  
25 and I'd like to think they would give me the discretion to

1 say, "We could apply this much resource." I don't  
2 necessarily have that in every degree.

3 **MR. STRAWCZYNSKI:** Okay, Mr. Thomas, I  
4 appreciate that. It's that decisions have to be made for  
5 financial -- for the earmarking of funding and that not all  
6 of this is within your discretion, but we had talked about  
7 efforts that had been made by the Board to try to obtain  
8 funding towards this goal; correct?

9 **MR. THOMAS:** Yes.

10 **MR. STRAWCZYNSKI:** And I'm just wondering,  
11 ballpark figure, how much money we're talking about for  
12 your particular school board to attain the level of  
13 services that you had discussed would be required in order  
14 to properly support a full attack on this issue to make  
15 sure that the resources are in place and whether that's  
16 already been identified by your Board, and whether you have  
17 a number already set down that would be able to tackle this  
18 problem?

19 **MR. THOMAS:** I don't have a number but it  
20 would be significant.

21 **MR. STRAWCZYNSKI:** I'm trying to understand,  
22 sir, how we can move this discussion forward to a point  
23 where it's not just a question of the earmarking of funds  
24 but, again, towards where we might be able to take those  
25 steps that you said are so important and so necessary to do

1           this job properly. And I guess my question, sir, is  
2           whether the Board would consider preparing a proposal where  
3           they could provide to the public some understanding of the  
4           total budget it would take to try to address this issue  
5           within the school board.

6                       **MR. THOMAS:** I think our Board is a  
7           particularly sensitive and socially responsible Board. And  
8           even in light of the horrible economic conditions that  
9           we're in, if this was to be the will and I say the will is  
10          as important as anything in this, then we would find a way  
11          to do this.

12                      **MR. STRAWCZYNSKI:** Thank you, Mr. Thomas.  
13           Those are my questions.

14                      **THE COMMISSIONER:** Thank you.  
15           Mr. Lee?

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

17                      **MR. LEE:** Mr. Thomas, my name is Dallas Lee.  
18           I'm on for the Victims Group. I have just a couple of very  
19           brief areas to canvass with you.

20                      It's my understanding that you were with the  
21           Peel District School Board until coming to the Upper Canada  
22           Board in November of 2003.

23                      **MR. THOMAS:** Yes.

24                      **MR. LEE:** Had you ever at any point in your  
25           career prior to November of 2003 worked in this region?

1                   **MR. THOMAS:** I worked in the Peterborough  
2                   area.

3                   **MR. LEE:** In the?

4                   **MR. THOMAS:** Peterborough.

5                   **MR. LEE:** So never in the Upper Canada Board  
6                   or any of its predecessor boards?

7                   **MR. THOMAS:** No, no.

8                   **MR. LEE:** If we can look -- I think we're  
9                   already at the right page, to be honest with you.

10                   You've been asked a fair number of questions  
11                   about Recommendation 49.2 and you've spoken about some of  
12                   the resourcing issues that are causing problems there. I  
13                   take it, leaving the resourcing aside, you would agree, I  
14                   think in your words, that empowering kids to protect  
15                   themselves is key?

16                   **MR. THOMAS:** Yes.

17                   **MR. LEE:** And that's something that we  
18                   should all endeavour to do, including school boards?

19                   **MR. THOMAS:** Yeah, absolutely.

20                   **MR. LEE:** And I take it you would also agree  
21                   that having staff that's well trained to recognize signs of  
22                   abuse as early as possible is another layer of prevention  
23                   that we can impose there.

24                   **MR. THOMAS:** Yes.

25                   **MR. LEE:** And as I take your evidence, in a

1 perfect world with unlimited resources, you would be very  
2 much in favour of all of the training and all of the  
3 education possible to facilitate both of those things?

4 **MR. THOMAS:** Absolutely.

5 **MR. LEE:** And the problem you've identified  
6 for us is that if you do it partway or do it a little bit,  
7 you run into problems with not being able to cope with the  
8 fallout of the increased education and the increased  
9 awareness and the disclosures that that brings.

10 **MR. THOMAS:** Absolutely.

11 **MR. LEE:** And so, in other words, you may  
12 solve one problem by creating another?

13 **MR. THOMAS:** Yeah, a gigantic problem.

14 **MR. LEE:** And you told Ms. Jones in-chief  
15 that you've made efforts at various times during your  
16 tenure as director to secure additional funding. Am I  
17 correct on that?

18 **MR. THOMAS:** Yes.

19 **MR. LEE:** And you've let it be known that  
20 additional funds for things like training relating to  
21 sexual abuse is certainly something that you could put to  
22 use.

23 **MR. THOMAS:** Absolutely.

24 **MR. LEE:** We've had victims and alleged  
25 victims of abuse testify at this Inquiry, and one of the

1 questions that they're always asked at the end of their  
2 testimony relates to any recommendations they may have to  
3 improve the system, to help kids, to help kids struggling  
4 with abuse issues, whatever it may be.

5 We had a number of these witnesses suggest  
6 that survivors of sexual abuse should be brought into  
7 schools to address directly with the students issues of  
8 prevention and to encourage any student currently suffering  
9 abuse or who had suffered abuse in the past to disclose, to  
10 find somebody they trust and to come forward.

11 Do you know whether or not your Board or the  
12 Ministry more broadly has looked at implementing any kind  
13 of program or initiative that would facilitate such  
14 presentations from survivors of abuse in schools?

15 **MR. THOMAS:** I don't know of any.

16 **MR. LEE:** Is that something you would  
17 consider?

18 **MR. THOMAS:** It's something I would  
19 consider, yes.

20 **MR. LEE:** And I take it you would certainly  
21 be open to considering any initiative that would not  
22 require a tremendous output of funds, given some of the  
23 schedule -- or some of the budget problems?

24 **MR. THOMAS:** I guess I should make it very  
25 clear. I think the beginning process of doing the

1 professional development is the one-seventh of the iceberg.  
2 The six-sevenths is having the army of psychologists and  
3 social workers and trained professionals who are going to  
4 support the "families". Because you know from the Robins  
5 Report and the commission that was done was that one in  
6 eight, one in nine and one in ten -- and if you are in  
7 certain minorities it may be even higher in certain areas -  
8 - that you have to recognize that if you ask the difficult  
9 questions and you get the difficult answers and a child  
10 trusts you enough to disclose, well you can't say, "Well,  
11 good, we've started this," because we also know that the  
12 Crown's Office is going to have all kinds of work to do.  
13 We know that the children's services will be absolutely  
14 inundated because we recognize that one person comes  
15 forward, there's seven others that potentially may follow  
16 suit, and that we have to have -- you can't say, "Well,  
17 sorry, we've got a waiting list of three and a half years,"  
18 because that's not a waiting list. That just means you're  
19 not going to get service.

20 And so we have to recognize that as we  
21 prepare to build a community to have the will to do this,  
22 then we have to put in place the services that they'll  
23 need. And we have to let people know that this will take  
24 time to do as well, and prepare our community for it.

25 **MR. LEE:** And certainly you recognize that

1 your Ministry doesn't operate in isolation from all other  
2 government ministries?

3 **MR. THOMAS:** Yes.

4 **MR. LEE:** And certainly in the communities  
5 that you serve, there are many institutions and many  
6 organizations that need to work together?

7 **MR. THOMAS:** Absolutely.

8 **MR. LEE:** And given some of what you've just  
9 identified -- Crown Attorneys as an example, the Ministry  
10 of the Attorney General, who obviously also struggles with  
11 funding issues when it comes to counselling, when it comes  
12 to victim and witness support, and we've heard a lot at  
13 this Inquiry about that.

14 And you would acknowledge, I take it, that  
15 some coordination between ministries -- perhaps the  
16 Ministry of Health, as an example, given what you've said  
17 about health care resources being scarce and being  
18 unavailable would be appropriate at -- at higher levels to  
19 address some of these issues.

20 **MR. THOMAS:** Again, not to be picking at  
21 words, I've never said it's scarce. I think that we have  
22 to have the will to put it into our priorities and -- and  
23 where we make our priorities critical is I've noticed the  
24 last many years, there's been lots of money to use for kids  
25 and what we have to determine and have the will to set the

1 priorities.

2 MR. LEE: And ---

3 MR. THOMAS: But in a -- when you're  
4 competing for dollars -- if I may say, as you've alluded to  
5 -- I think you have to make a strong case.

6 MR. LEE: And whose role do you see it to  
7 make that case?

8 MR. THOMAS: I think the leaders of the  
9 community.

10 MR. LEE: That would include principals, I  
11 take it.

12 MR. THOMAS: Principals.

13 MR. LEE: Superintendents, directors of  
14 boards?

15 MR. THOMAS: Superintendents, directors.

16 MR. LEE: You looked with Ms. Jones at  
17 Recommendation 98, that's on our second last page, page 33  
18 dealing with the practice of providing a full reference or  
19 no reference depending upon whether the allegation is  
20 verified.

21 And in response to those questions, you  
22 alluded to the fact that the Board's policy and practice,  
23 as I understood it, is -- is to certainly make full  
24 disclosure to the -- the -- is it the Teachers College? Is  
25 it the ---

1                   **MR. THOMAS:** Ontario College of Teachers.

2                   **MR. LEE:** Ontario College of Teachers. Am I  
3 correct about that full disclosure to the College?

4                   **MR. THOMAS:** Yes.

5                   **MR. LEE:** And ---

6                   **MR. THOMAS:** Full and complete disclosure to  
7 the College.

8                   **MR. LEE:** And do you know whether or not  
9 there is any protocol or policy in place that contemplates  
10 what happens when the party requesting a reference is not  
11 related to the teaching profession?

12                               So for example, it's one thing when another  
13 board or another school calls asking because the applicant  
14 is applying for a teaching position; it's something else  
15 when the applicant is applying to work as an instructor at  
16 a YMCA camp or something along those lines.

17                               Is there anything in the policy or protocol  
18 that addresses that distinction and perhaps the -- the  
19 lesser access that a person -- a caller in that situation  
20 would have to the College?

21                   **MR. THOMAS:** No, there isn't.

22                   **MR. LEE:** And do you have any comments on  
23 what the Board's practice is in a situation where referring  
24 the caller to the College, perhaps, isn't going to work?

25                   **MR. THOMAS:** With teachers, that's our most

1 effective way to transfer information in light of freedom  
2 of information and other policies to protect people. The  
3 area of EAs -- an educational assistant or an office  
4 administrator or a bus driver or a custodian, it's that  
5 area that potentially is an area that we should look at.

6 **MR. LEE:** Thanks, sir.

7 Those are my questions.

8 **THE COMMISSIONER:** Thank you.

9 Mr. Chisholm?

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

11 **CHISHOLM:**

12 **MR. CHISHOLM:** Good evening, Mr. Thomas. We  
13 met when you were last here to give your evidence.

14 If I could take you back to the part of your  
15 evidence that Ms. Jones touched upon today dealing with the  
16 -- she was speaking to you about protocols between the --  
17 your school board and the CAS and perhaps -- I didn't give  
18 notice in this, but it's Exhibit 54 and it's tab 6. I  
19 don't think you'll need the hardcopy. I just want to take  
20 him to the first page, if you could put it up on the  
21 screen.

22 **(SHORT PAUSE/COURTE PAUSE)**

23 **MR. CHISHOLM:** I won't need -- I don't think  
24 we need it. You can't find it? Exhibit 54, tab 6, first  
25 page.

1 Up on the screen in front of you ---

2 MR. THOMAS: Yeah.

3 MR. CHISHOLM: --- Mr. Thomas, is a protocol  
4 that you testified about when you were last here. Ms.  
5 Jones asked you today when the protocol was last amended --  
6 today she asked you that. You were -- your answer was you  
7 weren't certain.

8 If I can get Madam Clerk to scroll down to  
9 the bottom of that first page, there's a date on there. I  
10 believe it will say "Effective July 1<sup>st</sup>, 2001." Mr. Thomas,  
11 you've seen this protocol before.

12 MR. THOMAS: Yes, I have.

13 MR. CHISHOLM: And if I suggest to you that  
14 this was a most recent version of the protocol, I take it  
15 you wouldn't disagree with me.

16 MR. THOMAS: No, I wouldn't.

17 MR. CHISHOLM: Okay.

18 Well, Mr. Crane may disagree with me in  
19 terms of the most recent version. I'll let him address  
20 that with you.

21 And turn -- if I can take you to another  
22 area -- and I understand you may not have knowledge of  
23 this, but you're a live witness that I have from your  
24 school board -- if I could take you, please, to Exhibit --  
25 or excuse me, Document 738529.

1                   **THE COMMISSIONER:** Thank you.

2                   Exhibit 3394 is a letter dated September  
3                   26<sup>th</sup>, 1983 to Monsieur -- Mr. J.J. Comtois from Ian McLean  
4                   and Mary Miller.

5                   **--- EXHIBIT NO./PIÈCE NO. P-3394:**

6                   (738529 -7170735) - Letter from Mary Miller  
7                   to J.J. Comtois re: Roberta Judd dated 26  
8                   Sep 83

9                   **MR. CHISHOLM:** Correct. Thank you.

10                  Mr. Thomas, we gave notice of this doc. I'm  
11                  not sure if you've seen it before, but it's a letter, as  
12                  the Commissioner suggests, that Mary Miller and Mr. McLean  
13                  are from the Children's Aid Society and they wrote to Mr.  
14                  Comtois back in 1983 with respect to Roberta Judd who's a  
15                  person who's testified here at this Inquiry. Have you had  
16                  the opportunity to look at this letter?

17                  **MR. THOMAS:** No, I haven't.

18                  **MR. CHISHOLM:** Can I get you just to look at  
19                  the -- look at it, please?

20                  **(SHORT PAUSE/COURTE PAUSE)**

21                  **MR. CHISHOLM:** Okay?

22                  **MR. THOMAS:** Yes.

23                  **MR. CHISHOLM:** And just to summarize, I take  
24                  it this -- your reading this letter would suggest that Ms.  
25                  Judd when she was residing in Martintown was attending the

1 Char-Lan District High School for the three years prior to  
2 this letter being written. Is that right?

3 **MR. THOMAS:** Yes.

4 **MR. CHISHOLM:** And then she moved ---

5 **MR. LEE:** Mr. Commissioner, there's no value  
6 to this exercise. I didn't object to Mr. -- Mr. Chisholm  
7 putting the document -- and he can dump some others on the  
8 record if he likes, but this witness can't possibly help us  
9 with this document.

10 **THE COMMISSIONER:** What -- what's the  
11 purpose, sir?

12 **MR. CHISHOLM:** To get on the record, sir,  
13 and this is the only -- today's the first day we've heard  
14 of the -- I'm -- I'm content if you give it an exhibit  
15 number and I will move on to my -- the other document.

16 **THE COMMISSIONER:** Move on, please.

17 **MR. CHISHOLM:** You -- you've given it an  
18 exhibit number and I'll -- I'll move on to the ---

19 **THE COMMISSIONER:** I did; 3394.

20 **MR. CHISHOLM:** And if I could next put  
21 Document 200037 in.

22 **THE COMMISSIONER:** Thank you.

23 Exhibit 3395 is a document March 3<sup>rd</sup>, 1987 re  
24 Roberta Judd's report cards.

25 --- **EXHIBIT NO./PIÈCE NO. P-3395:**

1 (200037) - Letter from E.M Edwards re:  
2 Roberta Judd dated 03 Mar 87

3 **MR. CHISHOLM:** Thank you, sir.

4 Mr. Thomas, just two questions about  
5 geography, if you can help us with that.

6 Char-Lan District High School is in  
7 Williamstown, Ontario.

8 **MR. THOMAS:** Yes.

9 **MR. CHISHOLM:** And Tagwi High School is west  
10 of Monkland. Is that right?

11 **MR. THOMAS:** Yes.

12 **MR. CHISHOLM:** Thank you, Mr. Thomas.

13 Those are my questions.

14 **THE COMMISSIONER:** Thank you.

15 Mr. Thompson?

16 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**  
17 **THOMPSON:**

18 **MR. THOMPSON:** Thank you, Mr. Commissioner.

19 Good afternoon, Mr. Thomas. My name's Christopher  
20 Thompson. I'm counsel for the Ministry of the Attorney  
21 General and we met last -- last time that you were here.

22 I do have some questions for you today and  
23 'm going to be going through the document that was provided  
24 with respect to the Robins recommendations. And the first  
25 recommendation I'm going to refer to is 10.2.

1 I just think there was some perhaps  
2 confusion in your evidence in-Chief on this recommendation.  
3 You discussed about whether there was any specific policies  
4 or protocols in answer to the recommendation and I believe  
5 you said no and that these recommendations in general deal  
6 more province-wide issues. If you look at the  
7 recommendation I think you'll agree that this  
8 recommendation anyway deals with school boards; correct?  
9 Policies and protocols of the school boards?

10 **MR. THOMAS:** Yes.

11 **MR. THOMPSON:** And my understanding from  
12 your earlier evidence, some years ago and there's a couple  
13 of documents in there that are exhibits in Exhibit 54, is  
14 that the Board in fact does have some policies and  
15 protocols. Obviously, you've got the School Board and the  
16 CAS policy, and you also have a police and School Board  
17 policy?

18 **MR. THOMAS:** And Safe Schools, yes.

19 **MR. THOMPSON:** Safe Schools policy. And you  
20 also have in your Exhibit 54 a policy from the Ministry of  
21 Education which assists in developing a school board and  
22 police policy?

23 **MR. THOMAS:** Yes.

24 **MR. THOMPSON:** That's right? And there are  
25 also other exhibits that were entered in last day that --

1       such as the violence-free schools policy of the Ministry in  
2       your reporting of Children in Need of Protection policy  
3       from the Ministry?

4               **MR. THOMAS:** Yes.

5               **MR. THOMPSON:** Okay.

6               I'd like to go on to number 50. And just to  
7       clarify in your answer here when you have "protocol",  
8       that's a reference to the CAS and School board protocol?

9               **MR. THOMAS:** Yes.

10              **MR. THOMPSON:** Right? And we discussed the  
11       other protocols or policies that you have, and I'd like to  
12       go to number 63.

13              This is in respect of record checks?

14              **MR. THOMAS:** Yes.

15              **MR. THOMPSON:** And in your answer, it  
16       references the Regulation 521/01 and that's also in your  
17       Exhibit 54. And what it says here is that the -- it  
18       authorized a collection of criminal background checks.

19              I don't know if we need to turn up the  
20       regulation but I would suggest to you that it requires, it  
21       doesn't simply authorize. Is that fair?

22              **MR. THOMAS:** Yes.

23              **MR. THOMPSON:** And that in fact the  
24       recommendation is in respect of applicants but the  
25       requirement is in respect of all teachers?

1                   **MR. THOMAS:** All teachers, yes.

2                   **MR. THOMPSON:** Okay.

3                   **MR. THOMAS:** Actually all staff on our  
4 Board.

5                   **MR. THOMPSON:** Okay.

6                   And I do have some documents; I believe you  
7 may have had an opportunity to review them. They're  
8 statutory references; if I could hand those out.

9                   Mr. Commissioner, I'm not sure if you'd like  
10 these to be made exhibits or not but they're statutory and  
11 legislative references -- or statutory and regulation  
12 references.

13                   What I propose to do is simply ask Mr.  
14 Thomas if he agrees with it, then I don't think we need to  
15 open up the document. If he would like the document to  
16 review just for his recollection and to help refresh his  
17 memory, then we can do it that way.

18                   **THE COMMISSIONER:** Which would you prefer,  
19 sir?

20                   **MR. THOMPSON:** I suggest that the quickest  
21 way to do it is that I simply ask him the question and if  
22 he agrees and he would like to look at the document he can  
23 tell us and we can show us the document.

24                   **THE COMMISSIONER:** All right.

25                   **MR. THOMPSON:** So I'm sure you've heard of

1 the *Ontario College of Teachers Act*?

2 MR. THOMAS: Yes.

3 MR. THOMPSON: Right. And were you aware  
4 that within that Act there's also requirements for criminal  
5 records checks for teachers?

6 MR. THOMAS: Yes, I am.

7 MR. THOMPSON: And that's -- I'm not going  
8 turn it up but it's -- what I'm referring to is Regulation  
9 184/97, section 2.1.

10 And I'd like to go on to Recommendation 80.  
11 This is almost identical to Recommendation 12 which you  
12 testified to earlier. I think it would be of assistance to  
13 look at this particular regulation that's referenced under  
14 section 80. The title is "Inapplicability of section  
15 18(1)(b) of the regulation under the *Teaching Profession*  
16 *Act*." It's the second tab. It should be in the second tab  
17 there.

18 MR. THOMAS: Okay, thank you.

19 MR. THOMPSON: The recommendation is in  
20 respect of 18(1)(b) of the regulation. And I just wanted  
21 to, for the record, point out if we turn to 18(1)(c) -- and  
22 it states:

23 "Notwithstanding section 18(1)(b), a  
24 member who makes an adverse report  
25 about another member respecting

1                   suspected sexual abuse of a student by  
2                   that other member, need not provide him  
3                   or her with a copy of the report or  
4                   with any information about the report."

5                   Do you see that, sir?

6                   **MR. THOMAS:** Yeah.

7                   **MR. THOMPSON:** And you're aware that this  
8                   regulation is somewhat different in that this is a  
9                   teacher's federation regulation as opposed to an Ontario  
10                  regulation?

11                  **MR. THOMAS:** Yes.

12                  **MR. THOMPSON:** And I think your answer  
13                  references the *Teaching Profession Act* and that would be  
14                  the Ontario Act.

15                  **MR. THOMAS:** Right.

16                  **MR. THOMPSON:** Which makes the same ---

17                  **MR. THOMAS:** Yes.

18                  **MR. THOMPSON:** --- recommendation? Okay.

19                  I'd like to turn to 82.2 recommendation.

20                  This is in respect of reporting to the Ontario College of  
21                  Teachers, and there's a reference to the *Ontario College of*  
22                  *Teachers Act*.

23                  And this reference is in respect of actually  
24                  the college reports to employers as opposed to employers  
25                  reports to the college. And the recommendation is in

1           respect of employers reports to the college.

2                           And I just want to suggest to you that  
3           perhaps what you're referring to should be 43.2 and 43.3 of  
4           the *Ontario College of Teachers Act* which actually deals  
5           with employers reports to the college.

6                           Would you like to review it or does that  
7           -- do you remember that?

8                           **MR. THOMAS:** I remember that and I've been  
9           working on this.

10                          **MR. THOMPSON:** Sorry, sir?

11                          **MR. THOMAS:** Can you restate the question?

12                          **MR. THOMPSON:** Certainly. The  
13           recommendation is in respect of employers reports to  
14           colleges and there's the column here that states, "Colleges  
15           Reports to Employers".

16                          And what I'm suggesting to you is that there  
17           is another section of that Act which actually responds to  
18           that recommendation that deals with employers reports to  
19           the colleges.

20                          **MR. THOMAS:** Reporting to the colleges ---

21                          **MR. THOMPSON:** Exactly.

22                          **MR. THOMAS:** Yes. I agree with ---

23                          **MR. THOMPSON:** And you're aware of that?

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

25                          **MR. THOMPSON:** Okay. And just for the

1 record, that's 43.2 and 43.3 of the Act.

2 Going to turn to 70.3 recommendation. This  
3 is in respect of defining sexual misconduct and school  
4 board policies, and there's a reference to an Ontario  
5 regulation and the *Ontario College of Teachers Act* and I'm  
6 sure that you're aware that the Ontario College of Teachers  
7 advisory on professional misconduct related to sexual abuse  
8 and sexual misconduct. Also contains an extensive  
9 discussion of sexual misconduct.

10 **MR. THOMAS:** Yes, it does.

11 **MR. THOMPSON:** Okay. I'd like to turn to  
12 Recommendation 61.2 -- or sorry, 61.1 which is just on the  
13 page before. This is in respect of resourcing education  
14 and training programs and it states:

15 "The adequate education and training of  
16 prospective and current teachers, other  
17 school staff and volunteers, students  
18 and person of sexual abuse and  
19 harassment require financial and other  
20 resources to ensure that educational  
21 programs are available and  
22 comprehensive. To the Board's  
23 knowledge, there's no specific funding  
24 provided for training and programs.

25 Now, I heard you earlier where you mentioned

1           that the funding that is currently in place for education  
2           is perhaps the best in 30 years.

3                   **MR. THOMAS:** I didn't say 30 years but I  
4           think it's significant.

5                   **MR. THOMPSON:** And in terms of -- this  
6           recommendation speaks to prospective and current teachers.  
7           I take it in your implementation you're really referring to  
8           current teachers and not prospective teachers?

9                   **MR. THOMAS:** I believe it should be both I  
10          think the faculties of education should play a role in this  
11          too.

12                   **MR. THOMPSON:** Okay. But you're not  
13          suggesting that -- in your answer on the implementation it  
14          says that there's no specific funding for that. I take it  
15          that's not a comment on the faculties of education?

16                   **MR. THOMAS:** No.

17                   **MR. THOMPSON:** I just want to understand one  
18          part of your evidence earlier, and perhaps you can correct  
19          me if I've got it wrong. My understanding is that there is  
20          some concern with providing training that would assist in  
21          children revealing sexual abuse because then you wouldn't  
22          have the resources in place to deal with it. Do I have  
23          that right?

24                   **MR. THOMAS:** Yes.

25                   **MR. THOMPSON:** Now, have you considered that

1           there may be Children's Aid Societies which could be of  
2           assistance, or the police?

3                       I would just think that it would be a  
4           positive development if more people would come forward, and  
5           that if you could assist them in that regard through  
6           training of staff, that that would be positive in and of  
7           itself.

8                       **MR. THOMAS:** I just speak specifically of my  
9           experience in working with Council and previous Council. I  
10          don't know of too many CEOs and directors who have my  
11          experience in this particular area, and what I learned from  
12          the Peterborough one was that even with -- the CAS was a  
13          partner in this particular -- and a very courageous partner  
14          in this particular endeavour.

15                      What happened was -- what we learned was  
16          that the issues of child -- particularly child sexual abuse  
17          was so pervasive that we perhaps unexpectedly weren't  
18          prepared to deal with it at every level; whether it was the  
19          Crown, whether it was the police, whether it was the  
20          Children's Aid Society -- at the number of issues that we  
21          had to attend to.

22                      Now, we did attend to them, but it meant  
23          some other things had to go on hold. And as you will  
24          respect, the fact that we do hundreds of psychometrician-  
25          style testing to place kids in the proper programs. We do

1 all kinds of assessments of students who perhaps need  
2 assistive devices and things like that.

3 What we did determine was that a lot of  
4 things went on hold while we dealt with this impressive  
5 problem. Would I do it again? Yes, I would. I think the  
6 thing we'd have to do, though, is spend a great deal of  
7 time and preparation to recognize that each of the agency  
8 partnership would have to have strong committed  
9 relationships, which we do have here, a Chief of Police, a  
10 CAS leader who really understands that we have to work  
11 together, and then a community services -- from your  
12 community family support services that are ready to take it  
13 on.

14 I think that if all those ingredients are  
15 put together, yes, I agree with you that something could be  
16 done.

17 **MR. THOMPSON:** And I guess what I'm getting  
18 at is -- well, I think what you've described is sort of the  
19 -- as what a friend of mine said earlier, the perfect-world  
20 model.

21 And what I'm suggesting to you is that -- is  
22 your view that you can either do the perfect-world model or  
23 nothing? Sorry, I shouldn't say that. Please let me  
24 rephrase; that you can either do the perfect-world model or  
25 that it's counterproductive to do sort of partial measures?

1                   **MR. THOMAS:** No, I think we're doing partial  
2                   measures even as we speak. The uniqueness of a child that  
3                   discloses or an adult who discloses child sexual abuse  
4                   would be that they would do that with someone that they  
5                   absolutely trust, and you don't give a disclosure to  
6                   someone who you don't trust. And those are happening  
7                   regularly.

8                   In fact, we have a pattern where we deal  
9                   with -- and we have our guidance counsellors, our social  
10                  workers are dealing with that all the time, and we're  
11                  understanding that.

12                  But to go deeper to where we teach teachers,  
13                  as alluded to by one of the counsel, to train our  
14                  volunteers as well and other people to look for it -- our  
15                  hockey coaches, et cetera, in different places, once you  
16                  start to do that in a comprehensive manner, you have to  
17                  have a planned response.

18                  So yes, I believe we're doing a lot of  
19                  things well right now, but we could go in a progressive  
20                  manner, but there has to be a great deal of will in the  
21                  community to do it.

22                  **MR. THOMPSON:** Right.

23                  **THE COMMISSIONER:** My understanding --  
24                  excuse me. If I understand correctly, you're saying if we  
25                  were to train our teachers and have them go out and do a

1 concerted effort to enlist the trust of the kids, that you  
2 might get 10 or 15 children come forward -- and I'm just  
3 using that number -- and that given that your system at  
4 this present time could not handle 10 or 15 children come  
5 forward, having their families going to counselling, that  
6 you would need those types of resources. It's the  
7 counselling resources that you would require?

8 **MR. THOMAS:** Well, I understand from what I  
9 was doing, Your Honour, the -- everything from the Crown  
10 Department to the Children's Aid Society and the Police  
11 Services Board -- there would be a lot of people and this  
12 wouldn't -- in the nature of 35,000 students in the School  
13 Board, you can well respect the fact it would be much more  
14 than 10.

15 **THE COMMISSIONER:** I'm just ---

16 **MR. THOMAS:** I know you were using a number,  
17 but the fact is we'd have to be ready for that, and I would  
18 say if we had 10 disclosures this week, that would put a  
19 tremendous weight on our Student Services Department.

20 **MR. THOMPSON:** I take it you're familiar  
21 with the new Teacher Induction Program?

22 **MR. THOMAS:** Yes.

23 **MR. THOMPSON:** And that's a requirement of  
24 the Ministry of Education?

25 **MR. THOMAS:** Yes, it is. We're working on

1 implementation of that right now.

2 MR. THOMPSON: All right.

3 And that's -- the training is then offered  
4 by school boards to new teachers?

5 MR. THOMAS: Yes.

6 MR. THOMPSON: And there is funds provided  
7 for that training?

8 MR. THOMAS: Yes, there is.

9 MR. THOMPSON: And that training involves  
10 training on Safe Schools and Healthy Schools?

11 MR. THOMAS: Yes, it does.

12 MR. THOMPSON: And part of that training  
13 involves the knowledge of expected interventions and  
14 protocols aimed at maintaining a safe learning environment?

15 MR. THOMAS: Yes, it does.

16 MR. THOMPSON: And including the type and  
17 nature of incidents that need to be reported, along with  
18 appropriate channels through which those reports and  
19 observations should be made?

20 MR. THOMAS: Yes.

21 MR. THOMPSON: And I think you testified  
22 earlier today and in the last day that you do provide  
23 training on the CAS protocol twice a year, I believe you  
24 mentioned?

25 MR. THOMAS: Yes.

1                   **MR. THOMPSON:** And last time you were here,  
2 I believe you told us you provided training on the CAS  
3 police protocol?

4                   **MR. THOMAS:** Yes.

5                   **MR. THOMPSON:** And that's regular training?

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

7                   **MR. THOMPSON:** All right.

8                   And I believe you also mentioned last day  
9 that you had training on the Ontario College of Teachers  
10 Professional Advisory that we spoke about earlier?

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

12                   **MR. THOMPSON:** And we can refer to the  
13 regulation, but I'm quite certain you're familiar with it  
14 in respect of professional activity days?

15                   **MR. THOMAS:** Yes.

16                   **MR. THOMPSON:** And I'm just going to  
17 summarize it and you can tell me if I've got it right. My  
18 understanding is that there's two days a year that are  
19 mandatory and that the province requires a certain  
20 curriculum for those two days, being numeracy and literacy,  
21 and then another day dealing with transfer of a student  
22 from elementary to secondary education. Do I have that  
23 right?

24                   **MR. THOMAS:** Yes, and special education.

25                   **MR. THOMPSON:** Special education.

1                   And that there's four other days that can be  
2                   used at the discretion of the Board for professional  
3                   activity?

4                   **MR. THOMAS:** Yes.

5                   **MR. THOMPSON:** And professional activity is  
6                   -- it used to be referred to as professional development,  
7                   and that's sort of a new term?

8                   **MR. THOMAS:** Yes.

9                   **MR. THOMPSON:** And so that during those four  
10                  days a year, at a minimum, you could provide training on  
11                  some of the issues we've discussed today?

12                  **MR. THOMAS:** Yes, we could.

13                  **MR. THOMPSON:** Can you please turn to 49.2  
14                  of the recommendations? And just before we got there, you  
15                  mentioned when you're talking about a concern of  
16                  disclosures, you mentioned resources of the CAS and the  
17                  Crown. I take it your concern isn't with those resources;  
18                  it's with the Board's resources?

19                  **MR. THOMAS:** Yes.

20                  **MR. THOMPSON:** Right. Okay.

21                  Now, 49.2 is in reference to policies and  
22                  protocols, and in the implementation part it identifies a  
23                  concern with resources for hiring professionals such as  
24                  social workers, psychologists, psychiatrists and  
25                  pediatricians.

1                   **MR. THOMAS:** Yes.

2                   **MR. THOMPSON:** Do you see that?

3                   **MR. THOMAS:** Yes.

4                   **MR. THOMPSON:**           And you testified about  
5                   this earlier and it's in your implementation section at --  
6                   for Recommendation 90 that the Board does provide  
7                   counselling and therapeutic services to students and family  
8                   members?

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

10                  **MR. THOMPSON:** And my recollection from your  
11                  testimony earlier is that there is funding for these  
12                  professionals. And before I ask you that, let me ask you  
13                  this question.

14                               Were you aware that the Ministry committed  
15                               \$10.5 million in 2007-2008 to fund non-teaching  
16                               professionals such as psychologists and social workers and  
17                               child and youth workers?

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

19                   **MR. THOMPSON:** Can you please turn to  
20                   Recommendation 59.1?

21                   **MR. THOMAS:** Just for the record, it wasn't  
22                   -- they didn't give our Board 10.9. We get less than 3  
23                   percent of that 10 million.

24                   **MR. THOMPSON:** No, I'm not suggesting that.

25                   **MR. THOMAS:** That was actually meant as much

1 for the media as it was -- sometimes they will hear that  
2 number and think what did we do with the 10.9 million. And  
3 as everyone would understand, Toronto, Ottawa and Hamilton  
4 play large -- the markets like that -- take on large -- it  
5 all comes out on a student per basis as we go through.

6 **MR. THOMPSON:** You're not suggesting that  
7 that provision of money was in bad faith for media; right?

8 **MR. THOMAS:** No, not at all.

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

10 **MR. THOMAS:** No, no.

11 **MR. THOMPSON:** Okay. I just wanted to  
12 clarify.

13 **THE COMMISSIONER:** Mr. Thomas is not that  
14 kind of witness.

15 **MR. THOMPSON:** I didn't think so. I don't  
16 mean to cast any aspersions.

17 **THE COMMISSIONER:** No.

18 **MR. THOMAS:** Thank you.

19 **THE COMMISSIONER:** So let's go to another  
20 question then, sir, about smaller communities and the  
21 division of funds on a per capita basis. Have you found  
22 that in small regions, sir, that is sometimes to the  
23 detriment of the region?

24 **MR. THOMAS:** The funding per head count,  
25 which is often seen as -- is perceived as an equitable

1 distribution of resources in fact can hurt a smaller  
2 community.

3 In essence, you have a school in declining  
4 enrolment, as much of North America is right now, and our  
5 schools are going through that, you would have a school  
6 that maybe 6 to 15 years ago had 200 kids in them, and now  
7 you still have a school and it has 60 to 100 kids and you  
8 still have to heat the building the same way. You still  
9 have to have the staff to serve. And so when you get money  
10 per head count, it perhaps can be a disservice because when  
11 there's 200 kids in the school, it brings a different level  
12 of service. And you have essential services. You still  
13 have to mow the lawn the same way. You still have to turn  
14 the lights on the same way whether there's 100 kids or 400  
15 kids in the school.

16 **MR. THOMPSON:** Could you please turn to  
17 Recommendation 59.1? And I think it would be of some  
18 assistance to have a couple of the documents, the last two.

19 **THE COMMISSIONER:** Thank you.

20 **MR. THOMAS:** Thank you.

21 **MR. THOMPSON:** These are excerpts from the  
22 *Education Act*, and I suspect you're familiar with them?

23 **MR. THOMAS:** Somewhat.

24 **MR. THOMPSON:** It's a rather large Act,  
25 which is why ---

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

2                   **MR. THOMPSON:** --- I haven't tried to  
3 reproduce the whole thing.

4                   **MR. THOMAS:** Thank you.

5                   **MR. THOMPSON:** Could you please turn to 171-  
6 8 -- sorry, 171-18?

7                   **MR. THOMAS:** Yes.

8                   **MR. THOMPSON:** And it says here -- this is  
9 under "the Power of Boards":

10                               "Provide instruction in courses of  
11 study that are prescribed or approved  
12 by the Minister or developed from the  
13 curriculum guidelines issued by the  
14 Minister or approved by the Board where  
15 the Minister permits the Board to  
16 approve courses of study."

17                   **MR. THOMAS:** M'hm. Yes.

18                   **MR. THOMPSON:** And if you could turn to the  
19 next document, it talks about the powers of the Minister.  
20 And I'm looking at 813(c). Do you follow me?

21                   **MR. THOMAS:** Yes.

22                   **MR. THOMPSON:** And it deals with:

23                               "Approving or permit boards to approve  
24 courses of study that are not developed  
25 from such curriculum guidelines and

1 alternative areas of study under which  
2 courses of study shall be grouped and  
3 authorize such courses of study in  
4 areas of study to be used in lieu of or  
5 in addition to any prescribed course of  
6 study or area of study."

7 And my question for you is if you refer to  
8 59.1 -- this is Recommendation, that is -- this is in  
9 reference for education for students and parents.

10 And my question for you is that the Board is  
11 authorized to create its own program or curriculum in that  
12 respect if it wished to do so?

13 **MR. THOMAS:** Yes, it would.

14 **MR. THOMPSON:** The final area I'd like to  
15 discuss with you is Recommendation 72. This is in respect  
16 of receiving an initial complaint.

17 "The school employees should be trained  
18 on how to detect the warning signs of  
19 sexual misconduct and, further, how to  
20 respond to disclosures of sexual  
21 misconduct."

22 And you say:

23 "The Board does not provide training  
24 regarding detecting warning signs of  
25 abuse. Resources are a factor. See

1 Recommendation 49.2."

2 MR. THOMAS: M'hm.

3 MR. THOMPSON: And I'd like to refer you to  
4 Exhibit 56. It's the "Violence-Free Schools Policy".

5 MR. THOMAS: Yes.

6 MR. THOMPSON: And in particular, page 11.  
7 Do you have that in front of you, sir?

8 MR. THOMAS: No, I don't.

9 MR. THOMPSON: It's Bates page 137, page 11  
10 of 22 in the top-right corner. First -- it went by pretty  
11 quickly -- this is a 1994 policy?

12 MR. THOMAS: Yeah.

13 MR. THOMPSON: If you remember that? It's  
14 on page 1.

15 MR. THOMAS: Yes, I'm familiar.

16 MR. THOMPSON: Sure. You're familiar with  
17 it. Okay.

18 So I'm looking at page 11 of 22 under "Staff  
19 Development". It states:

20 "School boards should provide  
21 opportunities for all staff to acquire  
22 the knowledge, skills and values  
23 necessary to develop and maintain a  
24 violence-free school environment."

25 I'm going to skip a paragraph:

1 "As part of their implementation plan,  
2 school boards/schools must determine  
3 priorities for staff development.  
4 Boards may wish to pursue opportunities  
5 to develop training programs in  
6 collaboration with other groups such as  
7 the police, social service agencies,  
8 community organizations, aboriginal  
9 elders and parent associations. When  
10 determining staff development  
11 priorities and implementation plans,  
12 the following elements should be  
13 considered: for all staff, recognizing  
14 signs of physical, sexual or mental  
15 abuse and knowing what to do (e.g. to  
16 whom to report an incident)."

17 So as early as 1994, this was signalled as  
18 an area for staff development.

19 Have you considered contacting the CAS or  
20 the police to assist you in providing that kind of  
21 training?

22 **MR. THOMAS:** Yes, we have. With the number  
23 of police services boards we work with and we have talked  
24 about this particularly in the Safe Schools areas, as you  
25 referred to earlier. This is an area that we continue to

1 work on.

2 And the issue -- the area of reporting  
3 incidents, that's again -- we're adhering very closely to  
4 that particular one. The area that we continue to -- that  
5 I've spoken about in the numbers is the whole aspect of  
6 recognizing, is a critical piece.

7 **MR. THOMPSON:** And what I'm going to suggest  
8 to you is in Recommendation 72, it talks about how to  
9 detect -- training on how to detect the warning signs of  
10 sexual misconduct, and it states in the implementation  
11 that:

12 "The Board does not provide training  
13 regarding detecting warnings signs of  
14 abuse. Resources are a factor."

15 I'm suggesting to you that at some point,  
16 since this Ministry policy in 1994, there must have been  
17 some training that went into recognizing signs of abuse, I  
18 would have thought.

19 **MR. THOMAS:** There is training that we have.  
20 It's also in the introduction phases of teachers as we go  
21 through, but the fact continues to be that this is a  
22 difficult area to get into. And I go back to something I  
23 learned in the extensive training I've had, is that you can  
24 have all the training in the world, but if you have not got  
25 the disposition that a child or an adult will disclose to

1       you, it's just never going to happen with all the training  
2       in the world. And I think it's what you have to recognize  
3       there.

4                       We have training for our guidance staff  
5       that's going on, our social workers and our  
6       psychometricians and our psychology staff that's going on  
7       all the time. These people are all trained through their  
8       own professional bodies and the Board in this, but the  
9       extensive training of all staff, we've not begun to touch  
10      that area.

11                    **MR. THOMPSON:** All right. Thank you for  
12      your testimony today, Mr. Thomas.

13                    **THE COMMISSIONER:** Thank you.  
14      Mr. Crane?

15                    **MR. CRANE:** No questions. Thank you.

16                    **THE COMMISSIONER:** Mr. Carroll has left the  
17      room.

18                    Any questions, sir? Do you have any  
19      questions, sir? Sir, did you have any questions?

20                    **MR. KEEL:** No.

21                    **THE COMMISSIONER:** Thank you.

22                    Mr. Thomas, once again, it's always a  
23      pleasure to see you and, as always, I enjoyed your evidence  
24      and your dedication to this very difficult subject. I can  
25      say that the people of Cornwall and the area are well done

1 by having you as a Board.

2 Thank you very much, sir.

3 **MR. THOMAS:** My pleasure.

4 **THE COMMISSIONER:** So we'll break for 10  
5 minutes and come back at 6:00 and see where we go with the  
6 motion.

7 Thank you.

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

10 This hearing will resume at 6:00 p.m.

11 --- Upon recessing at 5:50 p.m./

12 L'audience est suspendue à 17h50

13 --- Upon resuming at 6:00 p.m./

14 L'audience est reprise à 18h00

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

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

19 **THE COMMISSIONER:** Ms. Hamou.

20 **MS. HAMOU:** Good evening, Mr. Commissioner.

21 **THE COMMISSIONER:** Good evening to you too.

22 **MS. HAMOU:** We're seeking to introduce the  
23 Overview of Documentary Evidence for a lady named Carol  
24 Tyrell.

25 **THE COMMISSIONER:** Yes.

1                   **MS. HAMOU:** The ODE will be accompanied by  
2 some documents as well.

3                   **THE COMMISSIONER:** Yes.

4                   **MS. HAMOU:** Mrs. Tyrell was a transportation  
5 manager ---

6                   **THE COMMISSIONER:** Oh, just -- okay, go  
7 ahead. I thought that Mr. Crane would want to come in and  
8 do the ---

9                   **MS. HAMOU:** Well, I'll give him an  
10 opportunity.

11                   **THE COMMISSIONER:** The Manderville trot.  
12 Did you want to -- we're putting in an ODE, sir. You  
13 better get up here.

14                   **MS. HAMOU:** Okay, go ahead. It's not in  
15 yet.

16 ---**SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. CRANE:**

17                   **MR. CRANE:** Thank you, sir. This will be, I  
18 take it, the last time we'll be rising to make any  
19 objection, sir, but consistent with the submissions the  
20 morning, we would object to the entry of the ODE for the  
21 three positions I set out this morning.

22                   **THE COMMISSIONER:** Thank you.

23                   **MR. CRANE:** Thank you, sir.

24                   **THE COMMISSIONER:** And I need not repeat  
25 what I have always said, but there you go.

1                   **MS. HAMOU:** So Mr. Commissioner, as I was  
2 saying, Carol Tyrell was Transportation Manager for the  
3 Stormont, Dundas and Glengarry County School Board ---

4                   **THE COMMISSIONER:** Yes.

5                   **MS. HAMOU:** --- from 1994 to 2002, and this  
6 being a period of interest during which Jean-Luc Leblanc  
7 was hired and subsequently arrested in 1999.

8                   Ms. Tyrell was unable to testify. The  
9 parties were so advised and they were advised that her  
10 evidence could be canvassed through documentary evidence,  
11 and none of the parties objected to this process.

12                   **THE COMMISSIONER:** So can we have a copy of  
13 the overview?

14                   **MS. HAMOU:** Sure.

15                   **THE COMMISSIONER:** And that will be Exhibit  
16 number 3396, Overview of Documentary Evidence of Carol  
17 Tyrell.

18                   **--- EXHIBIT NO./PIÈCE NO. 3396:**

19                   Overview of Documentary Evidence of Carol  
20 Tyrell

21                   **THE COMMISSIONER:** Do you have some  
22 documents you're going to want to file?

23                   **MS. HAMOU:** I do. I have about nine  
24 documents to enter.

25                   **THE COMMISSIONER:** Okay.

1                   **MS. HAMOU:** So we'll start with the first,  
2                   which is 118173.

3                   **THE COMMISSIONER:** Yes, thank you. Exhibit  
4                   3397 is email correspondence to Brenda -- oh, Schaefer?

5                   **MS. HAMOU:** I believe it's an email from  
6                   Carol Tyrell.

7                   **THE COMMISSIONER:** Oh, from Tyrell to Brenda  
8                   Schaefer, right, and the date of that is ---

9                   **MS. HAMOU:** August 8<sup>th</sup>, 1999.

10                  **THE COMMISSIONER:** Thank you.

11                  **--- EXHIBIT NO./PIÈCE NO. P-3397:**

12                                 (118173) - E-mail from Carol Tyrell to  
13                                 Brenda Schaefer re: Bus Driver charged with  
14                                 Sexual Assault dated 08 Jan 99

15                  **MS. HAMOU:** The next document is 118174.

16                  **THE COMMISSIONER:** Thank you. Exhibit 3398  
17                   is a letter dated January 19<sup>th</sup>, 1999 addressed to Mr. Rory  
18                   Evans from Mark Schaefer.

19                  **--- EXHIBIT NO./PIÈCE NO. P-3398:**

20                                 (118174) - Letter from Schaefer with  
21                                 attachments dated 15 Jan 99

22                  **MS. HAMOU:** The next document is 130136.

23                  **THE COMMISSIONER:** Exhibit 3399 is document  
24                   entitled "Standards of Performance for School Bus  
25                   Operators".

1           **--- EXHIBIT NO./PIÈCE NO. P-3399:**

2                           (130136) - Standards of Performance for  
3                           School Bus Operators.

4           **MS. HAMOU:** The next document is 130139.

5           **THE COMMISSIONER:** Exhibit 3400 is a  
6           transportation contract, draft copy, 1998 to 2000.

7           **--- EXHIBIT NO./PIÈCE NO. P-3400:**

8                           (130139) - Transportation Contract 1998-2000  
9                           Draft Copy.

10          **MS. HAMOU:** The next document is 130142.

11          **THE COMMISSIONER:** Thank you. Exhibit  
12          number 3401 is a Standards of Performance, 2008-2009. I'm  
13          sorry, and that's for transportation.

14          **--- EXHIBIT NO./PIÈCE NO. P-3401:**

15                           (130142) - Transportation Standards of  
16                           Performance 2008-09.

17          **MS. HAMOU:** The next document is 200357.

18          **THE COMMISSIONER:** Thank you. And that is  
19          Exhibit 3402, which is the profile, the professional  
20          profile of Carol Tyrell.

21          **--- EXHIBIT NO./PIÈCE NO. P-3402:**

22                           (200357) Career Profile of Carol Tyrell

23          **MS. HAMOU:** The next document is 709441.

24          Seven zero eight four four one (708441). I'm sorry,  
25          Mr. Commissioner.

1                   **THE COMMISSIONER:** That's okay. Exhibit  
2                   3403 is a statement of -- can we mention this name? Yes,  
3                   he's the owner of the bus fleet; right? Rory Evans, and  
4                   the statement is taken on the 6<sup>th</sup> of January, 1999.

5                   **--- EXHIBIT NO./PIÈCE NO. P-3403:**

6                                   (708441) - Interview Report of Rory Evans  
7                                   dated 06 Jan 99

8                   **MS. HAMOU:** The next document is an excerpt  
9                   of Document 727732, and the Bates page number is 7107513.

10                   **THE COMMISSIONER:** Thank you. And these are  
11                   notes of whom?

12                   **MS. HAMOU:** Detective Constable Genier, for  
13                   January 8<sup>th</sup>, 1999.

14                   **THE COMMISSIONER:** Thank you. And that will  
15                   be Exhibit 3404.

16                   **--- EXHIBIT NO./PIÈCE NO. P-3404:**

17                                   (727732-7107513) - Notebook of Don Genier  
18                                   Notebook 8 dated 08 Jan. 99

19                   **MS. HAMOU:** And the final document is  
20                   742500.

21                   **THE COMMISSIONER:** Thank you. And that is a  
22                   document called -- which will be Exhibit 3405,  
23                   Transportation Safety Committee minutes of Wednesday,  
24                   November 25<sup>th</sup>, 1998.

25                   **--- EXHIBIT NO./PIÈCE NO. P-3405:**

1 (742500) - Transportation Safety Committee  
2 minutes dated 25 Nov 98

3 **MS. HAMOU:** Mr. Commissioner, I'll proceed  
4 with the ODE.

5 **THE COMMISSIONER:** Go ahead.

6 --- OVERVIEW OF DOCUMENTARY EVIDENCE OF CAROL TYRELL  
7 SUBMITTED BY/SURVOL DE LA PREUVE DOCUMENTAIRE DE CAROL  
8 TYRELL PRÉSENTÉE PAR MS. HAMOU:

9 **MS. HAMOU:** "Carol Tyrell began working for  
10 the Stormont, Dundas and Glengarry County School Board in  
11 approximately 1970. She worked in a number of departments  
12 in various capacities."

13 Reference, Exhibit 3402.

14 "In 1994 Tyrell became Acting Transportation  
15 Manager for the board. She became Transportation Manager  
16 in 1995 and assumed responsibility for the management of  
17 the Transportation Department of the amalgamated school  
18 boards that became the Upper Canada District School Board  
19 in 1997. She remained in the position of the  
20 Transportation Manager of the Upper Canada District School  
21 Board until her retirement in June of 2002."

22 Reference, Exhibit 3402.

23 "As Transportation Manager, Tyrell was  
24 responsible for implementing guidelines, preparing bus  
25 routes and ensuring bus operators performed their duties

1 and that students remained safe."

2 Reference, Exhibit 3402.

3 "Provision of School Bus Services. The  
4 board entered into a contract with bus operators to provide  
5 transportation services for schools within the board's  
6 jurisdiction. The bus operators were responsible for the  
7 hiring and employment of bus drivers. Contracts with bus  
8 operators were usually for one-year terms, and were usually  
9 renewed every year."

10 References, Exhibit 3400, Exhibit 3399 and  
11 Exhibit 3405.

12 "Transportation Policies and Procedures.  
13 Prior to 1999 there were no written policies or standards  
14 governing school bus operators, although bus operators were  
15 provided with a yearly contract setting out rates and  
16 safety measures."

17 Reference, Exhibit 3399.

18 "On or around January 11<sup>th</sup>, 1999 the board  
19 approved the Standards of Performance for School Bus  
20 Operators, also referred to as Standards of Performance.  
21 This document introduced the requirements that a police  
22 criminal record check be completed by operators for  
23 individuals they considered for hiring as bus drivers."

24 Reference, Exhibit 3399.

25 "Before this requirement was introduced, it

1 was the board's expectation that bus driver applicants  
2 identify on their application forms with bus operators  
3 whether or not they had any criminal convictions. Criminal  
4 record checks of potential bus drivers were done by the  
5 Ministry of Transportation as part of the application for a  
6 B-class licence, which was required to operate a school  
7 bus. The Board delivered an MTO; Ministry of  
8 Transportation criminal record check only went back five  
9 years. Tyrell was not aware that criminal record checks  
10 were not time-limited."

11 Reference, Exhibit 3398 and Exhibit 3405.

12 "After the January 11<sup>th</sup>, 1999 version of the  
13 Standards of Performance was adopted, a new draft  
14 transportation contract dated April 8<sup>th</sup>, 1999 was  
15 circulated. It included a provision requiring a police  
16 criminal record check by bus operators of all new drivers  
17 prior to employment."

18 Reference, Exhibit 3400.

19 "The Standards of Performance for the Upper  
20 Canada District School Board and Catholic District School  
21 Board of Eastern Ontario require that a criminal record  
22 check be conducted by bus operator before a bus driver is  
23 hired, and that all infractions be reported to the  
24 Transportation Department."

25 Reference, Exhibit 3401.

1 "Jean-Luc Leblanc. Jean-Luc Leblanc was  
2 hired by Evans Bus Lines as a school bus driver in or  
3 around October 1998."

4 Reference, Exhibit 3398.

5 "Leblanc advised Rory Evans, the owner of  
6 Evans Bus Lines, that he had been convicted in 1986 of  
7 sexual assault."

8 Reference, Exhibit 3403.

9 "According to the board's hiring guidelines,  
10 Evans should have notified Tyrell of Leblanc's criminal  
11 conviction."

12 Reference, Exhibit 3405 and Exhibit 3398.

13 "Leblanc was arrested the morning of January  
14 5<sup>th</sup>, 1999. Evans contacted Tyrell's office late that  
15 afternoon about the arrest."

16 Reference, Exhibit 3398.

17 "Tyrell met with Evans on January 7<sup>th</sup>, 1999  
18 along with Gary McDonald, Charlene Cardinal and Patsy  
19 Evans. Evans explained that Leblanc had told him he was  
20 charged in 1986 with sexual assault but had gone to  
21 counselling and was cured. Evans indicated that he did not  
22 know the details of the charges and was satisfied with  
23 Leblanc's explanation."

24 Reference, Exhibit 3398.

25 "As of January 7<sup>th</sup>, 1999 there was no written

1 requirement that bus operators conduct a police record  
2 check for bus drivers. In the future, however, all new  
3 drivers would need a police record check completed by the  
4 bus operator."

5 Reference, Exhibit 3398 and Exhibit 3399.

6 "On January 8<sup>th</sup>, 1999 Tyrell met with  
7 Detective Constable Don Genier of the OPP. Later that day  
8 Tyrell sent an email to several individuals at the Board  
9 outlining what had transpired with respect to LeBlanc."

10 Reference, Exhibit 3404 and Exhibit 3397.

11 "On January 15<sup>th</sup>, 1999 Mark Schaefer,  
12 Superintendent of Human Resources, wrote a letter to Evans  
13 and indicated that it was an expectation that criminal  
14 checks be completed and that a record of conviction be a  
15 deciding factor in the hiring of bus drivers.

16 The letter advised Evans that the Board may  
17 cancel his transportation contract should there be a re-  
18 occurrence of his failure to follow Board policy or  
19 accepted practice."

20 Reference, Exhibit 3398.

21 That is all, Mr. Commissioner.

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

23 So I understand that we had set aside this  
24 time, and it's six-fifteen, for the discussion of the  
25 matter of Mr. Johnson's evidence and whether or not he

1 would be testifying as to matters that may or may not be  
2 the subject matter of solicitor-client privilege.

3 Are we prepared to argue the motion? I  
4 don't see Mr. Neville here. I understand Mr. ---

5 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. DUMAIS :

6 MR. DUMAIS: Mr. Scharbach is here. I don't  
7 see Mr. Neville or Mr. Culic. I was advised that Mr.  
8 Silmsler would not be attending. That's all the information  
9 I have.

10 MR. KEEL: With your permission, sir --  
11 sorry, with your permission, sir, we're going to retire.  
12 We're not going to take part in this argument.

13 THE COMMISSIONER: I'm disappointed.

14 MR. KEEL: Trains to catch.

15 THE COMMISSIONER: Safe trip.

16 MR. DUMAIS: Mr. Neville's outside, Mr.  
17 Commissioner.

18 THE COMMISSIONER: All right.

19 MR. DUMAIS: If I can, Mr. Commissioner,  
20 just before we move on to the motion, there's one  
21 outstanding issue with respect to the "O", there's two  
22 documents that MAG wanted to be introduced as additional  
23 documents that were relevant to this ODE.

24 We've agreed to do this tomorrow afternoon  
25 when we'll be dealing with additional documents that need

1 to be filed in evidence.

2 (SHORT PAUSE/COURTE PAUSE)

3 THE COMMISSIONER: All right. Is Mr.  
4 Johnson here?

5 MS. JONES: Pardon me?

6 THE COMMISSIONER: Is Mr. Johnson here?

7 MS. JONES: Yes. He's five minutes away.

8 THE COMMISSIONER: Okay.

9 Mr. Scharbach?

10 MR. SCHARBACH: Yes, sir, that's correct.

11 Mr. Johnson is in his office. He's five minutes away. If  
12 you should decide that he should testify tonight, he will  
13 be here.

14 THE COMMISSIONER: Okay. So ---

15 MS. JONES: He's on standby.

16 THE COMMISSIONER: --- what are we doing?

17 MS. JONES: Well, I can advise just further  
18 to what Mr. Dumais said, I can advise that we did receive a  
19 fax from Mr. Culic here at the Inquiry concerning the issue  
20 that was raised earlier a couple of weeks ago about whether  
21 or not Mr. Silmser was waiving solicitor-client privilege;  
22 it was his privilege to waive or not.

23 And I do have a letter from Mr. Culic saying  
24 that he -- Mr. Silmser adamantly refuses to release any  
25 solicitor-client privilege. So that is the issue being

1 discussed here.

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

3 Mr. Neville?

4 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. NEVILLE:

5 **MR. NEVILLE:** Good evening, Commissioner.

6 **THE COMMISSIONER:** How are the roads?

7 **MR. NEVILLE:** Do you have a snowmobile or --

8 -

9 **THE COMMISSIONER:** I'm not driving back  
10 tonight.

11 **MR. NEVILLE:** Well, nobody else is either.  
12 So it's an adventure.

13 **THE COMMISSIONER:** Okay.

14 **MR. NEVILLE:** I guess I'm up at this point,  
15 Commissioner, if for no other reason than it was during my  
16 cross-examination and the sequence of cross-exams where  
17 this topic came up.

18 **THE COMMISSIONER:** Right.

19 **MR. NEVILLE:** So I guess for that reason I  
20 assume you would call upon me. What I have -- it seems to  
21 me, sir, our problem is partly this, and I can take you to  
22 some of the evidentiary references that sort of have us at  
23 the point we're at.

24 It seems to me, sir, that we need to have  
25 something in the nature of a *voire dire*, which for purposes

1 of the Inquiry is normally an in camera session, for you to  
2 have in front of you in some more defined fashion what Mr.  
3 Johnson's evidence would be on this topic because we don't  
4 really have it.

5 What we have and what I've provided to you,  
6 sir, is all that I, as a party, had -- I presume everybody  
7 -- is the comment or sentence or two in the AE.

8 In addition, what you have, Commissioner, in  
9 Volume 328 of the evidence before you on January 6<sup>th</sup>, Ms.  
10 Jones, at page 191 using the pagination of the volume  
11 itself, does this. She says -- and I can wait perhaps if  
12 you -- Commissioner -- you have it? Yes, sir.

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

14 **MR. NEVILLE:** So line 17.

15 **THE COMMISSIONER:** Yeah.

16 **MR. NEVILLE:** It's queued to Exhibit 295,  
17 sir, as Constable Sebalj's notes, and she asks Mr. Johnson  
18 as follow.

19 Mr. Silmsler, according to her, that is  
20 Sebalj, had told her that he had retained you as counsel  
21 and had fired you a couple of days later.

22 When he was talking to her on the 22<sup>nd</sup> of  
23 February -- these are her notes I'm reading from and then  
24 he -- she reads out to Mr. Johnson that he was fired,  
25 according to Mr. Silmsler, for doing things without his

1 approval.

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

3 **MR. NEVILLE:** And then she says:

4 "Now, concerning any issues of  
5 privilege, I'm going to allow you to  
6 make the decision if there's an issue  
7 with regards to any of that, if you  
8 wish to comment on that. This has just  
9 come out in the Inquiry and I -- if you  
10 wish to, you can make a response."

11 And you have Mr. Johnson's response, sir for  
12 the next 10 or so lines.

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

14 **MR. NEVILLE:** The operative -- a significant  
15 portion I guess is about line 9:

16 "Mr. Silmser approached me in a bar,  
17 said he wanted to talk to me about  
18 something. I told him I don't talk  
19 business in a bar. If he wanted to  
20 speak to me he had to make an  
21 appointment. He showed up at my  
22 office, told me about what his game  
23 plan was, and I asked him to leave. I  
24 gave him a choice of two ways of  
25 leaving."

1 Which I took to mean something less than  
2 complimentary. And that got us to where we were, sir.

3 And to perhaps give you a bit more by way of  
4 evidentiary reference because that of course doesn't stand  
5 by itself.

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

7 **MR. NEVILLE:** In Volume 86 of the  
8 proceedings, which is January 30<sup>th</sup>, 2007, Mr. Silmser is  
9 being examined in-chief at that point by Commission  
10 counsel, Mr. Engelmann. Did you want to -- probably harder  
11 to dig it out. Sure. Page -- I'm using the pagination ---

12 **THE COMMISSIONER:** Mr. Lee?

13 **MR. LEE:** Can I have just one moment,  
14 please?

15 **THE COMMISSIONER:** Thank you.

16 **(OFF-RECORD DISCUSSION/DISCUSSION HORS ENREGISTREMENT)**

17 **MR. NEVILLE:** Excuse me, Mr. Commissioner.

18 **THE COMMISSIONER:** Mr. Strawczynski?

19 **MR. STRAWCZYNSKI:** Getting crowded here,  
20 Commissioner.

21 **THE COMMISSIONER:** Yeah.

22 **MR. NEVILLE:** Sorry, again, sir.

23 Mr. Lee just whispered a comment in my ear,  
24 sir, that you maybe -- I'm not sure procedurally where  
25 we're going. You may wish at this point perhaps to hear

1 briefly from my friend, Mr. Scharbach from MAG, because I  
2 gather they may take -- are taking the position -- I just  
3 was handed a cerlox binder a minute ago, that there is  
4 privilege here.

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

6 **MR. NEVILLE:** But that begs the question, of  
7 course, because first of all we don't know what the  
8 evidence purportedly was and, secondly, there are  
9 exceptions that I touched on briefly on the previous  
10 occasion. I brought some authorities to discuss with you  
11 but ---

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

13 **MR. NEVILLE:** --- so I don't know whether  
14 you want to hear from MAG at the moment but I -- that's my  
15 understanding is they're going to advance the proposition  
16 of privilege.

17 **THE COMMISSIONER:** Well, regardless whether  
18 MAG does it, we have a letter from Mr. Culic saying that --  
19 -

20 **MR. NEVILLE:** Well, frankly, sir, on the law  
21 of privilege, you probably didn't even need that. The  
22 issue was to give him notice.

23 **THE COMMISSIONER:** Right. M'hm.

24 **MR. NEVILLE:** And as you know, as a judge,  
25 you have to protect privilege until it's otherwise deemed

1 not to apply.

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

3 **MR. NEVILLE:** So I suppose that just states  
4 somewhat the obvious, but it was something that should have  
5 been done.

6 So just going back to Volume 86 briefly,  
7 sir, the topic of the interrelationship between Silmsler and  
8 Don Johnson is addressed at page 42 using the pagination of  
9 the volume itself as opposed to the super text numbering.  
10 Line 13:

11 Mr. Engelmann: "Now did you ever meet  
12 a lawyer by the name of Don Johnson?"

13 A: "Yes, I did."

14 Q: "I'm trying to get you to think  
15 back to approximately February of  
16 1993."

17 A: "Okay."

18 Q: "Okay.""

19 **THE COMMISSIONER:** I'm sorry. Sorry. What  
20 page again?

21 **MR. NEVILLE:** I'm sorry. I'm using the  
22 numbering at the top, sir.

23 **THE COMMISSIONER:** No, no, that's fine.

24 **MR. NEVILLE:** Forty-two (42).

25 **THE COMMISSIONER:** Forty-two (42) and it's

1 just I've got one where there are four pages right on one  
2 page.

3 **MR. NEVILLE:** Oh, yes, right, right, right.

4 **THE COMMISSIONER:** So page -- yes, I've got  
5 it right there. Let's go, okay.

6 **MR. NEVILLE:** Line 13.

7 **THE COMMISSIONER:** Yes.

8 **MR. NEVILLE:** So I'm now down to about ---

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

10 **MR. NEVILLE:** --- line 18: "Okay?"

11 Mr. Engelmann: "His name has come up  
12 here before and I understand, at one  
13 point, he was a Crown prosecutor and at  
14 one point, he was a defence counsel."

15 A: "That's correct."

16 Q: "How did you meet him?"

17 A: "In a restaurant downtown."

18 Q: "All right. And did you have any  
19 discussion with him about what you were  
20 going through?"

21 A: "Yes, I did."

22 Q: "And did he offer to assist you in  
23 any way?"

24 A: "I actually think I asked him if he  
25 would consider taking on the case as my

1 lawyer and I think he was very  
2 agreeable to it, but that's as far as  
3 the extent we went on. There was very,  
4 very little conversation going on at  
5 the time."

6 Mr. Engelmann: "Did you ever hire him?  
7 Did you ever actually retain him to  
8 help you?"

9 A: "No, I didn't."

10 And then you, sir, asked questions at the  
11 bottom or one anyway:

12 "Was this a casual meeting or was it  
13 pre-planned?"

14 Silmsen: "Actually a casual meeting.  
15 I just bumped into him."

16 And there's a couple of brief comments that  
17 he knew of him from before.

18 The topic -- and perhaps, a more important  
19 component of the topic -- is addressed in volume 90 in the  
20 cross-examination by the Diocese through Mr. Sherriff-Scott  
21 and you will find that, sir, in Volume 90, February 6<sup>th</sup>,  
22 2007 at page 189.

23 Oh, okay. Sorry, Commissioner, I'm told my  
24 friend here has tabbed volumes that has all these things in  
25 it so ---

1                   **THE COMMISSIONER:** So now all I have to do  
2                   is get one.

3                   **MR. NEVILLE:** Yeah. Madam Clerk?

4                   **THE COMMISSIONER:** Thank you.

5                   **MR. NEVILLE:** This volume, sir, of Mr.  
6                   Sherriff-Scott's cross-ex is Tab 2.

7                   **THE COMMISSIONER:** Page what again?

8                   **MR. NEVILLE:** I'm -- I'm -- my page is 189.

9                   **THE COMMISSIONER:** Good.

10                  **MR. NEVILLE:** Line 13.

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

12                  **MR. NEVILLE:** Mr. Sherriff-Scott, sir, is  
13                  using -- as you know, we put in two versions of Sebalj's  
14                  notes; a typed ---

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

16                  **MR. NEVILLE:** --- and a -- and a  
17                  handwritten. Two ninety-five (295) -- Exhibit 295 is the  
18                  handwritten. He was using the typed, I guess, for ease of  
19                  reading so that's what he's talking about 8 of 64. He  
20                  says:

21                                 "There's a long note here of a  
22                                 discussion recorded with Ms. Sebalj  
23                                 which appears to be dated February  
24                                 18<sup>th</sup>."

25                                 At the top of the page. The time of day is

1 at the bottom of the page preceding -- we don't need to go  
2 to, but it looks like there is a call from you and he's  
3 addressing Mr. Silmsen and I just want to ask you a few  
4 questions.

5 And then he reads the quote from the notes  
6 verbatim as follows:

7 "You advised you had retained a lawyer,  
8 got drunk, met Don Johnson at a bar.  
9 States he knows him for some time.  
10 Told him the story. He never  
11 questioned it. Didn't ask for any  
12 money. Said, I'll take the case. He  
13 advises he wants Don to go to the  
14 Diocese and go through their lawyer's  
15 resettlement. Wants to know what they  
16 are offering. Not taking settlement.  
17 Will pursue it after all. Criminal  
18 charges. Wants Don to know what's  
19 going on. Then stated, we want to take  
20 them to the cleaners going for the full  
21 [amount or amounts, it says] amounts  
22 strong and hard."

23 And he's asked if that's consistent with  
24 what he recalls and his answer at that point is "Absolutely  
25 not."

1 Then he goes on at line 16:

2 "Did you meet with Don Johnson as you  
3 told Mr. Engelmann?"

4 A: "Yes. And there was a discussion  
5 with him about his potential taking the  
6 case on. I asked him in a restaurant.  
7 He said, yes. He said, he would think  
8 about it."

9 Q: "Okay. So there was a discussion  
10 about potential litigation between you  
11 and Don Johnson, casual as you  
12 described it?"

13 A: "That's correct."

14 And then Mr. Silmsler, sort of, intervenes on  
15 his own to say:

16 "Nobody was drunk so I don't know where  
17 that came from."

18 Mr. Sherriff-Scott says he's not concerned  
19 about that point -- part of it and Silmsler then says:

20 "But I am because if these notes are  
21 incorrect, a lot of her notes may not  
22 be correct all the way through here."

23 And then perhaps, more importantly for our  
24 purposes, sir, he then takes him to the second entry on the  
25 22<sup>nd</sup> of February and reads him verbatim as follows at the

1 bottom of that page, 191:

2 "Advised he fired Don Johnson on  
3 Friday. Says he was doing things  
4 without his approval. States he will  
5 get a lawyer when the criminal work is  
6 done and will retain an Ottawa lawyer."

7 And then Mr. Sherriff-Scott says:

8 "Is that consistent with your  
9 recollection, Mr. Silmser?"

10 At the top of page 192, says "That's  
11 correct."

12 So there are all those evidentiary  
13 references. There are the notes themselves, sir, and of  
14 course, Mr. Johnson's transcript which, I guess, is in my  
15 friend's volume at a -- at another tab. So those are, sort  
16 of, the evidentiary bases. What you -- what you don't  
17 have, I suppose, to sort of complete the picture more  
18 specifically for you and I suppose, all of us is what Mr.  
19 Johnson would say. I don't wish to read out again ---

20 **THE COMMISSIONER:** No.

21 **MR. NEVILLE:** --- but you know the essence  
22 of what was contained in the AE and it raises a number of  
23 issues ---

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

25 **MR. NEVILLE:** --- triggering at least three

1 potential exceptions to solicitor/client privilege. The  
2 best practice -- as far as the case law and the text say --  
3 is where there is uncertainty, the trier of the issue ought  
4 to hear the evidence whether it -- or look at the evidence  
5 if it happens to be an issue over a document and the like.

6 So unfortunately or impractical as it may be  
7 at the time -- and weather and the like -- I -- my view is  
8 I think that's where we are.

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

10 **MR. NEVILLE:** Of hearing it. Then whatever  
11 meaning -- for example, if -- if Mr. Johnson were to come  
12 and -- and say, "Well, I don't know exactly what the words  
13 were, but it was sort of along this line", you may or may  
14 not make something of that. I don't know.

15 All I can tell you is and I brought for your  
16 assistance -- and I have other copies and I didn't know  
17 whether Mr. Culic would be here personally -- I have  
18 excerpts, sir, from the late Justice Sopinka's text on  
19 privilege and from Justice David Watt's Manual of Evidence  
20 setting out the principles.

21 **THE COMMISSIONER:** I think -- we don't have  
22 Watt's.

23 **MR. NEVILLE:** It -- it may be that my friend  
24 has it.

25 **THE COMMISSIONER:** We have the Law of

1 Privilege in Canada from Robert Hubbard et al ---

2 **MR. NEVILLE:** Okay.

3 **THE COMMISSIONER:** And I've got the Law of  
4 Evidence, 2<sup>nd</sup> edition, from John Sopinka.

5 **MR. NEVILLE:** All right.

6 So I have that -- that chapter or portions  
7 of that for you, sir, but in essence, if the evidence is as  
8 it appears to be -- and there are some consistencies,  
9 frankly, in what's already in, including the cross-  
10 examination of Mr. Silmsler.

11 Now we're -- we have two problems, I suppose  
12 are these. Ms. Sebalj, for reason of health, could not  
13 testify and her evidence or her factual overview, so to  
14 speak, is in by way of an ODE and her notes are an exhibit.  
15 If one takes the position -- not unreasonably I would say,  
16 that she would adopt her notes and say, "I wrote down  
17 accurately what Mr. Silmsler said" then what you have, among  
18 other things, is a conflict that's between what Ms.  
19 Sebalj's notes say and Mr. Silmsler claims he said at least  
20 in the first conversation where he takes exception with the  
21 reference to "drunk."

22 He doesn't -- interestingly in my view --  
23 take exceptions significantly when Mr. Sherriff-Scott  
24 cross-examines him on the second entry from the 22<sup>nd</sup> of  
25 February and that's the entry which may, in fact, involve

1 one of the recognized exceptions and that is implied waiver  
2 by virtue of criticizing the conduct or ethics of counsel.

3 So you may have a degree of evidentiary  
4 basis already. What would complete it, at least from the  
5 point of view of the witness, Johnson, is what exactly  
6 would his evidence be beyond an outline. So that's where  
7 we are.

8 **THE COMMISSIONER:** M'hm. Thank you.

9 Anybody wish to add on the -- anybody  
10 backing Mr. Neville should come forward.

11 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. STRAWCZYNSKI

12 **MR. STRAWCZYNSKI:** Good evening, Mr.  
13 Commissioner. The Citizens for Community Renewal has  
14 already, I believe, stated once before that this sort of  
15 evidence should move to a voir dire to understand exactly  
16 what has happened here.

17 I don't think it needs to be said, but the  
18 issues at stake here go to some of the key issues of fact  
19 of the -- of the Inquiry and are of importance to our  
20 clients. And we support in full what Mr. Neville has just  
21 said as to the legal foundation for why privilege may be  
22 waived or why they -- why there may be the evidence of --  
23 of crime exception as well.

24 **THE COMMISSIONER:** Thank you.

25 But there is absolutely -- like, how do you

1 know that? Like, how can you come up with that when you  
2 don't know what -- what was ---

3 **MR. STRAWCZYNSKI:** Mr. Commissioner, all we  
4 have -- all that counsel was received was an AE ---

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

6 **MR. STRAWCZYNSKI:** --- and we have the notes  
7 as well.

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

9 **MR. STRAWCZYNSKI:** Admittedly, there may be  
10 other -- there are multiple arguments here for why there  
11 might be a reason why privilege no longer attaches here.

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

13 **MR. STRAWCZYNSKI:** Waiver has been mentioned  
14 by my friend.

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

16 **MR. STRAWCZYNSKI:** In the past, before you,  
17 it has been raised by counsel as well.

18 **THE COMMISSIONER:** Oh yeah, but on way way  
19 different issues.

20 **MR. STRAWCZYNSKI:** Okay. I will leave it at  
21 that, Mr. Commissioner.

22 **THE COMMISSIONER:** Okay.

23 **MR. STRAWCZYNSKI:** It's just our position  
24 that ---

25 **THE COMMISSIONER:** No, that's fine.

1                   **MR. STRAWCZYNSKI:** --- these are matters  
2                   that are of great importance to the community. Thank you.

3                   **THE COMMISSIONER:** All right.

4                   Is the Coalition here? No.

5                   Anybody in favour?

6                   So Mr. Carroll.

7                   --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. CARROLL:

8                   **MR. CARROLL:** I rise to support Mr.  
9                   Neville's position, sir, for the reasons already advanced  
10                  and I think that concerns that there may be for any privacy  
11                  interests of Mr. Silmsler can be dealt with by way of voir  
12                  dire at an in-camera session.

13                  **THE COMMISSIONER:** Thank you.

14                  Mr. Crane, I'd forgotten you.

15                  --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. CRANE:

16                  **MR. CRANE:** Mr. Commissioner, we too support  
17                  the submissions of Mr. Neville and, as a starting point,  
18                  would support going into a voir dire to address this  
19                  matter.

20                  **THE COMMISSIONER:** Thank you.

21                  Mr. Scharbach?

22                  --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. SCHARBACH:

23                  **MR. SCHARBACH:** I take a different view,  
24                  Mr. Commissioner.

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

1                   **MR. SCHARBACH:** I take the view that the  
2                   communications between Mr. Silmser and Mr. Johnson are  
3                   solicitor-client privileged and, accordingly, they should  
4                   not be revealed and Mr. Johnson should not be compelled to  
5                   come and testify as to what was discussed with Mr. Silmser.

6                   I think there are three issues that are  
7                   relevant for your consideration in that regard, and the  
8                   first is: Were the communications made with -- between  
9                   Mr. Silmser and Mr. Johnson in a solicitor-client  
10                  relationship?

11                  I think the second issue is: Did  
12                  Mr. Silmser waive any solicitor-client privilege that he  
13                  may have had?

14                  And thirdly: Do the communications fall  
15                  within an exception to solicitor-client privilege? That is  
16                  communications sought in order to facilitate the crime -- a  
17                  crime.

18                  And, in my respectful submission, the  
19                  communications were made in the context of a solicitor-  
20                  client relationship, even though there was no retainer, and  
21                  I hope to bring you to some authority on that. There was  
22                  no waiver, and I hope to bring you to some authority on  
23                  what constitutes waiver, and in this particular instance  
24                  there is -- my submission would be that there is no  
25                  evidence whatsoever that the communications meet the test

1 for being an exception to solicitor-client privilege on the  
2 basis that they were communications in order to facilitate  
3 a crime.

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

5 **MR. SCHARBACH:** And I hope to bring you to  
6 the authorities on this as well.

7 In the package of ---

8 **THE COMMISSIONER:** What about the voir dire?

9 **MR. SCHARBACH:** I think, in order to get to  
10 a voir dire, there has to be some factual basis to indicate  
11 that in this case Mr. Silmsler was going to Mr. Johnson  
12 seeking advice for something that he knew --knowingly  
13 regarded as a crime, and I don't think there is any  
14 evidence of that. And I'll take you to the test in a  
15 moment.

16 **THE COMMISSIONER:** All right.

17 **MR. SCHARBACH:** But I'll take you to the  
18 first three issues, if I can, in that order.

19 **THE COMMISSIONER:** Go ahead. Yes. Yes.

20 **MR. SCHARBACH:** Just for your convenience,  
21 the first four tabs of the package I've given you contain  
22 the transcripts of everything that Mr. Silmsler said about  
23 his communications with Mr. Johnson and everything that Mr.  
24 Johnson said about his communications with Mr. Silmsler.

25 And Mr. Neville has taken them to you

1 already but I want to quickly review them.

2 At tab 1, page 41, I believe, Mr. Neville  
3 took you to this. At line 13, Mr. Engelmann asks if --  
4 asks Mr. Silmser if he had ever met a lawyer by the name of  
5 Don Johnson. He says he did. "How did you meet him?" He  
6 talks about meeting him in a restaurant. "Did you have any  
7 discussion about what you were going through?" Yes, he  
8 did. "Did he offer to assist you in any way?" Mr. Silmser  
9 says:

10 "I actually think I asked him if he  
11 would consider taking on my case as my  
12 lawyer. I think he was very agreeable  
13 and that was the extent we went on.  
14 There was very little conversation  
15 going on at the time."

16 So that's what he says in examination-in-  
17 chief.

18 If we turn to tab 2, Mr. Silmser is asked in  
19 more detail in cross-examination by Mr. Sherriff-Scott and,  
20 as Mr. Neville indicated at page 189 in tab 2, Mr. Silmser  
21 is taken to Heidi Sebalj's notes where Heidi Sebalj notes  
22 that Mr. Silmser gave her certain details concerning his  
23 meetings -- his meeting with Mr. Johnson. He says --  
24 according to Heidi Sebalj:

25 "Silmser said met Don Johnson at a bar.

1 States he knows him for some time.  
2 Told him the story. He never  
3 questioned it. Didn't ask for any  
4 money. Said, 'I'll take the case.'  
5 Advises he wants Don to go to the  
6 Diocese and go through their lawyers re  
7 settlement. Wants to know what they  
8 are offering. Not talking settlement.  
9 Will pursue it after all..."

10 That's as close as we get to the details of  
11 the items that were discussed. But then -- and I think  
12 this is important -- Mr. Silmsen is asked:

13 "Is that consistent with your  
14 recollection of what you may have told  
15 Ms. Sebalj?"

16 And he says, "Absolutely not." In other  
17 words, he doesn't adopt Heidi Sebalj's notes on that.

18 So we don't have evidence, in my respectful  
19 submission, from Mr. Silmsen concerning the details of what  
20 it was that he discussed with Mr. Johnson.

21 Mr. Engelmann at page -- sorry,  
22 Mr. Sherriff-Scott, at page 191, takes him to another  
23 excerpt from Heidi Sebalj's notes, at the bottom, and this  
24 is the excerpt from the notes where Heidi Sebalj says that  
25 Mr. Silmsen advised that he fired Don Johnson because he

1 was doing things without his approval:

2 "... states he will get a lawyer when the  
3 criminal work is done and will retain  
4 an Ottawa lawyer."

5 Mr. Engelmann says, "Is that consistent with  
6 your recollection?" Mr. Silmser says, "That's correct."

7 The important thing, I think, to note here  
8 is that Mr. Silmser isn't talking about the advice. He's  
9 not talking about the nature of the advice that he sought  
10 and he's not talking about the advice that he got back.  
11 He's simply saying, "I fired him. I fired him because he  
12 was doing things that I didn't ask him to do." That was  
13 it.

14 So that is the extent of what Mr. Silmser's  
15 description of his communications with Mr. Johnson were.

16 At tab 3 we have what Mr. Johnson says about  
17 those communications, and in his examination-in-chief,  
18 which is at tab 3 at page 192, Mr. Johnson is asked about  
19 his contact with Mr. Silmser, and you'll see at line 8  
20 Johnson says:

21 "I was never retained by David Silmser  
22 and I can tell you, or you may be  
23 aware, Mr. Silmser approached me in a  
24 bar. He said he wanted to talk to me  
25 about something. I don't talk business

1 in a bar. If he wanted to speak to me  
2 he had to make an appointment. He  
3 showed up at my office, told me about  
4 what his game plan was. I asked him to  
5 leave. I gave him a choice of two ways  
6 of leaving."

7 Which I suppose is an inference that he  
8 didn't like what he was hearing. But still, there is no  
9 indication there as to what it was that they were  
10 discussing.

11 Finally, at tab 4, cross-examination by  
12 Mr. Lee of Don Johnson, and the exchange starts at the top  
13 of page 93 and goes to about halfway down page 95.  
14 Mr. Commissioner, rather than me reading it out loud, maybe  
15 you could just take a moment to read it to yourself.

16 (SHORT PAUSE/COURTE PAUSE)

17 THE COMMISSIONER: Yes, go ahead.

18 MR. SCHARBACH: So I think it's clear from  
19 that exchange that Mr. -- if you accept Mr. Johnson's  
20 version of these events, and they do -- Mr. Silmsen's  
21 version of his contacts with Mr. Johnson differ from  
22 Mr. Johnson's version -- but if you accept Mr. Johnson's  
23 version for a moment, it's clear that Mr. Silmsen came to  
24 Mr. Johnson in his capacity as a lawyer, in his office, in  
25 his law office, and discussed a matter with him, a legal

1 matter with him.

2 And the end result was that Mr. Johnson was  
3 not retained by Mr. Silmser.

4 On either version, though, I think it's  
5 clear that they did discuss -- Mr. Silmser did seek out Mr.  
6 Johnson in his capacity as a lawyer and sought legal  
7 advice. And in that regard -- so the question is, as I  
8 said: Was this advice or was this communication provided  
9 in the context of a solicitor-client relationship?

10 I'd like to take you, if I could, to Tab 6 -  
11 --

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

13 **MR. SCHARBACH:** --- in that same material,  
14 which contains an excerpt from The Law of Evidence by John  
15 Sopinka. And you'll see -- there should be a highlighted  
16 paragraph ---

17 **THE COMMISSIONER:** Yes.

18 **MR. SCHARBACH:** --- on the third page in.

19 **THE COMMISSIONER:** Yes, m'hm.

20 **MR. SCHARBACH:** And I think this is a clear  
21 summary of law on this point:

22 "Disclosure of a communication will not  
23 be compelled even though it was made at  
24 a time when the relationship between  
25 the solicitor and the client had not

1                   been formally established by either by  
2                   retainer or payment of fees.  
3                   Preliminary communications made by a  
4                   person to a solicitor with a view to  
5                   retaining him or her to act on his or  
6                   her behalf establishes a sufficient  
7                   relationship to which privilege will  
8                   attach. It's immaterial whether the  
9                   solicitor agrees to take the brief and  
10                  represent the client. An individual  
11                  should be encouraged to approach a  
12                  solicitor of his or her choice, but in  
13                  so doing, there's no guarantee the  
14                  solicitor will accept employment.  
15                  Therefore, the right to privilege turns  
16                  not upon the existence of a contract  
17                  but upon the relationship or its  
18                  potential existence when the individual  
19                  seeks professional advice from the  
20                  solicitor."

21                         In my respectful submission, that exactly  
22                         applies in this case.

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

24                                 **MR. SCHARBACH:** That brings me to the second  
25                                 point, the second issue I should say, and that is waiver.

1                   Did Mr. Silmsers waive his privilege? As far  
2 as I can tell, as far as I know, Mr. Silmsers has never  
3 publicly stated that he waives his privilege, expressly  
4 waives his privilege. In fact, I think we have mentioned a  
5 letter tonight from his lawyer in which he said that he  
6 didn't.

7                   That leaves open the possibility of Mr.  
8 Silmsers waiving at either impliedly or implicitly by  
9 putting his advice out there into the public domain in some  
10 case.

11                   And when you read the materials, the  
12 authorities, they talk about things such as raising the  
13 advice in pleadings, for example, a waiver, or perhaps  
14 raising it in testimony.

15                   **THE COMMISSIONER:** Using it as a shield.

16                   **MR. SCHARBACH:** Using it as a shield.

17                   And in my respectful submission, that hasn't  
18 happened in this case.

19                   I took you to the excerpts in the  
20 transcripts of Mr. Silmsers's testimony. The closest he  
21 came to that was when the note of Heidi Sebalj was put to  
22 him, he did not accept it. What he said about his advice,  
23 in my respectful submission, the only thing he said about  
24 his advice was that he went to see Mr. Johnson about a  
25 legal matter. He did not retain him. He ended up firing

1 him. Mr. Johnson said he wasn't fired. He has a different  
2 version of that.

3 But the important point is that Mr. Silmser  
4 has never put out into the public domain as a shield,  
5 implicitly, impliedly, the nature of the advice that he was  
6 seeking or the advice he got.

7 So in my respectful submission, there's no  
8 waiver.

9 Which brings me to the third issue. Do the  
10 communications between Silmser and Johnson fall within the  
11 future crimes or fraud exception? And my position is that  
12 they don't in this case.

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

14 **MR. SCHARBACH:** The one piece of information  
15 that's been pointed to is the AE.

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

17 **MR. SCHARBACH:** Which -- well, you've seen  
18 the AE. You know what it says.

19 In my respectful submission, that AE should  
20 be given no weight. It wasn't written by Mr. Silmser. It  
21 wasn't written to be evidence. We -- counsel can't cross-  
22 examine on it. It's simply meant to be an indication to  
23 counsel as to the areas that are going to be delved into in  
24 the examination of the witness.

25 It's far more important, in my respectful

1 submission, to look at what the actual evidence is.

2 Now, the exception -- I'm just going to find  
3 the -- the description of the exception is far better than  
4 the authorities that I can give you. I'm going to take you  
5 to the authorities for a minute, but in my respectful  
6 submission, what they say is that the exception applies  
7 when a client approaches a lawyer to knowingly get advice,  
8 to knowingly get assistance to facilitate a criminal  
9 activity or a crime. In other words, the client is seeking  
10 the lawyer's advice or assistance to commit what he knows  
11 or he should know is a crime.

12 On the other hand, the exception doesn't  
13 apply where a client seeks the lawyer's advice on a matter  
14 or to carry out a course of conduct that he doesn't know is  
15 illegal or he wants to get the lawyer's advice on its  
16 illegality.

17 That second situation is a legitimate area  
18 for lawyers to provide advice on, and those areas are  
19 privileged.

20 **THE COMMISSIONER:** Now, how am I going to  
21 know that if I don't have a voir dire?

22 **MR. SCHARBACH:** I think to -- this takes us  
23 back to the voir dire question. I think that's what you're  
24 asking.

25 And in my respectful submission, there is

1 simply no evidence anywhere on the record that indicates  
2 that Mr. Silmser went to Mr. Johnson asking for his advice  
3 to knowingly carry out some sort of criminal activity. I  
4 think there would have to be some indication, some factual  
5 basis to raise that spectre.

6 If I could take you to the authority at Tab

7 ---

8 **THE COMMISSIONER:** Five (5)?

9 **MR. SCHARBACH:** --- 5?

10 **THE COMMISSIONER:** Yes. It's ---

11 **MR. SCHARBACH:** And if we go by the numbers  
12 on the bottom, 11-43.

13 **THE COMMISSIONER:** I'm there.

14 **MR. SCHARBACH:** There's a section there on  
15 the future crimes and fraud exception. And I'll just  
16 briefly read a couple of excerpts from there. They should  
17 be highlighted.

18 **THE COMMISSIONER:** Yes, they are.

19 **MR. SCHARBACH:** "Where communications  
20 between solicitor and client are  
21 criminal in themselves, for example,  
22 the fraudulently laid application or  
23 are made with a view to obtaining legal  
24 advice to facilitate the commission of  
25 a crime, solicitor-client privilege no

1 longer applies. A client who has a  
2 criminal purpose when consulting a  
3 lawyer is no longer consulting a lawyer  
4 in his professional capacity because it  
5 cannot be the lawyer's business to  
6 participate in or further any criminal  
7 object."

8 And two paragraphs down:

9 "The client must know or should have  
10 known of the criminal purpose when  
11 seeking the legal advice in order for  
12 the exception to apply. This allows  
13 privilege to continue to protect good  
14 faith consultations with lawyers by  
15 clients who are uncertain about the  
16 legal implications of a proposed course  
17 of action."

18 And then you'll see a quote in the middle of  
19 the page, and the author goes on to say:

20 "As a matter of public policy, an  
21 important part of the lawyer's function  
22 is to counsel against unfounded claims  
23 or illegal projects. If a lawyer  
24 refused to provide advice to a client  
25 if he or she suspected the proposed

1 action might turn out to be illegal,  
2 this would be an unwarranted intrusion  
3 on legitimate consultations."

4 And very quickly, the text refers to a  
5 Supreme Court of Canada, *R. v. Campbell*, which is the last  
6 authority at Tab 7. And there were a number of issues that  
7 were examined in that case, including the future crimes and  
8 fraud exception. At page 48 there are a number of  
9 statements wherein the Court is adopting from other cases  
10 the idea that the exception only applies where a client is  
11 knowingly pursuing a criminal purpose when he goes and gets  
12 -- when he asks his lawyer for advice.

13 You'll see -- if I can just take two  
14 excerpts, you'll see about three-quarters of the way down  
15 the page there's an indented quote:

16 "The knowledge required minimizes the  
17 effect of the exception of proper  
18 communication. Absent this  
19 requirement, legitimate consultations  
20 would be inhibited by the risk that  
21 their subject matter might turn out to  
22 be illegal and therefore unprivileged.  
23 Moreover, counselling against unfounded  
24 claims or illegal projects is an  
25 important part of a lawyer's function."

1                   And then very finally, if I can just draw  
2                   your attention to the quote on the next page, page 49,  
3                   where the Court approvingly quotes from an American case  
4                   which I think states it most clearly:

5                   "We approve of the requirement that in  
6                   order to invoke the exception to the  
7                   privilege, the proponent of the  
8                   evidence must show that the client,  
9                   when consulting the attorney, knew or  
10                  should have known that the intended  
11                  conduct was unlawful. Good faith  
12                  consultations with attorneys by clients  
13                  who are uncertain about the legal  
14                  implications of a proposed course of  
15                  action are entitled to the protection  
16                  of the privilege even if that action  
17                  should later be held to be improper."

18                  On the question of whether we need to go  
19                  into a voir dire, in my respectful submission, it would be  
20                  appropriate to go into a voir dire if there was any factual  
21                  basis for you to suspect that Mr. Silmsen's consultation  
22                  with Mr. Johnson was anything other than good faith. If  
23                  there was any factual basis to suggest that Mr. Silmsen  
24                  knew or ought to have known that the intended conduct that  
25                  he was seeking Mr. Johnson's advice on was illegal, then I

1 could endorse going into a voir dire.

2 But in this case all we have is evidence,  
3 really when you boil it down, that Mr. Silmser went to Mr.  
4 Johnson about his case. He got advice about his case, or  
5 at least he discussed his case. He didn't retain Mr.  
6 Johnson, and Mr. Johnson ---

7 **THE COMMISSIONER:** Asked him to leave.

8 **MR. SCHARBACH:** --- didn't take on the case.

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

10 **MR. SCHARBACH:** That was it.

11 So in my respectful submission, there is no  
12 basis on the record at least to suggest that solicitor-  
13 client privilege should be opened up in this case, and no  
14 reason to go into a voir dire.

15 Those are my submissions. Thank you.

16 **THE COMMISSIONER:** Thank you.

17 All right, Mr. Lee.

18 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. LEE:

19 **MR. LEE:** Mr. Commissioner, I fully and  
20 without limitation support the position advanced by  
21 Mr. Scharbach. I agree with everything he said.

22 I want to reiterate the point that you have  
23 absolutely no evidence before you whatsoever that would  
24 lead you to even believe it possible that the Future Crimes  
25 exception would apply here.

1           You have the AE, as others have pointed out.  
2           There is no evidentiary value whatsoever in the AE and I  
3           would ask you to take my word for the fact that it would be  
4           a very slippery slope if we started going behind Statements  
5           of Anticipated Evidence at this Inquiry. They have been  
6           used for a very limited purpose and it does not in any way  
7           come close to approaching an evidentiary purpose, as you  
8           know.

9           I would also submit to you that waiver as it  
10          relates to calling a solicitor's actions into question, in  
11          my mind, should be unambiguous, and we have nothing but  
12          ambiguity here when you look at the evidence before you.

13          And I, like Mr. Scharbach, would suggest  
14          that you have no reason, on what you have before you, to go  
15          into a voir dire on this.

16                   **THE COMMISSIONER:** Thank you.

17                   Anyone else?

18          ---**SUBMISIONS BY/REPRÉSENTATIONS PAR MR. HORN:**

19                   **MR. HORN:** We concur with the positions put.

20                   **THE COMMISSIONER:** Thank you, Mr. Horn.

21                   Thank you. On the issue of the voir dire, I  
22          find that that's an exercise of discretion on the part of  
23          the judge in dealing with these matters, and I find that I  
24          will not go into a voir dire.

25                   The issue of a voir dire is -- I agree with

1 Mr. Scharbach, is there has to be a threshold, and I find  
2 that the threshold hasn't been met in this case.

3 So, Mr. Neville, do you wish to respond to  
4 the issue of whether or not solicitor-client privilege  
5 applies, like to Mr. Scharbach's argument?

6 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR.NEVILLE:

7 MR. NEVILLE: Thank you, Commissioner.

8 I do have brief submissions to provide you.

9 THE COMMISSIONER: Yes?

10 MR. NEVILLE: In my respectful submission,  
11 there are three exceptions that apply here on the basis

12 ---

13 THE COMMISSIONER: Yes.

14 MR. NEVILLE: --- on the basis of any one of  
15 which the evidence ought to be heard.

16 May I refer you -- those three are these,  
17 sir.

18 THE COMMISSIONER: M'hm.

19 MR. NEVILLE: It is my submission that, on  
20 what we know so far, including Mr. Johnson's evidence and  
21 the other passages I referred you to -- including the  
22 Sebalj notes -- this was not a confidential communication  
23 as discussed in the law, and I will come to argue to you  
24 why.

25 Secondly, in my respectful submission, there

1 has already been implied waiver by virtue of the evidence  
2 given, led both by Commission counsel in chief, through the  
3 cross-examination that I've touched on by Mr. Sherriff-  
4 Scott, and by Commission counsel in chief with Mr. Johnson.

5 **THE COMMISSIONER:** Right.

6 **MR. NEVILLE:** And the other form of waiver  
7 or implied waiver -- it's a two-part position on the waiver  
8 concept -- is there is clearly, on the face of the  
9 documents, an attack on the integrity of Mr. Johnson  
10 because the portion of the notes that contain that attack  
11 on his conduct was adopted by Silmser.

12 It's the first set of notes but we have to  
13 go back to those, Commissioner, because, with great  
14 respect, I think there has been somewhat an unrealistic  
15 analysis done here.

16 I just left them on my desk. I'll just  
17 retrieve them.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MR. NEVILLE:** What's most unusual here, to  
20 put it mildly, sir, is, in his evidence-in-chief with  
21 Mr. Engelmann back in Volume 86, he takes the position  
22 there, at page 43:

23 "Did you ever hire him? Did you ever  
24 actually retain him to help you?"

25 Answer:

1 "No, I didn't."

2 Now, how one fires someone one has hired  
3 -- hasn't hired escapes me, but that's exactly what the  
4 evidence is.

5 In Mr. Sherriff-Scott's cross-examination,  
6 at page 191 to 92 of Volume 90, he reads to him the second  
7 passage from February 22<sup>nd</sup> and asks him -- or he says he  
8 fired him and then makes the comment about exceeding his  
9 instructions or doing things without his approval, to quote  
10 the exact words. Then he asks me -- that is the counsel:

11 "Is that consistent with your  
12 recollection?"

13 Answer:

14 "That's correct."

15 So one can't have the two at the same time.

16 Now, in the evidence -- that is the notes of  
17 February 18<sup>th</sup>, Constable Sebalj records Mr. Silmser as  
18 saying to her:

19 "He [meaning Silmser] advises he wants  
20 Don to go to the Diocese and go through  
21 their lawyers re settlements. Wants to  
22 know what they are offering."

23 Now, the missing piece here, potentially for  
24 Mr. Johnson, is what was it -- because that's consistent  
25 with what Mr. Johnson has already said, that he came to the

1 office and based on his "game plan" he invited him to  
2 leave.

3 So what you have here are -- and when  
4 Mr. Silmsler is asked in chief by Mr. Engelmann about the  
5 first passage of notes -- that's the ones I just touched on  
6 sir -- and he's asked:

7 "Is that consistent with your  
8 recollection, what you may have told  
9 Ms. Sebalj?"

10 He says:

11 "Absolutely not."

12 And then, it ends up that the main dispute  
13 he seems to be raising -- I'm sorry, that was by Sherriff-  
14 Scott, sir. What he seems to be raising as his big  
15 complaint to that first note entry from the 18<sup>th</sup> of February  
16 is the reference to being drunk, not what actually he was  
17 speaking to Johnson at this point in the restaurant/bar.

18 So there doesn't seem to be a denial that  
19 that's what he spoke to Johnson about.

20 The question then becomes: What did he want  
21 or say to Johnson to do vis-à-vis settlements, wanting to  
22 know what they are offering?

23 Is there a quid pro quo, which is the real  
24 problem here?

25 Now, let's come back to what I said to you a

1 moment ago.

2 It's very clear, I suggest to you, that  
3 Mr. Silmsler consulted Mr. Johnson. I have no quarrel with  
4 my friend Mr. Scharbach's submission that overtures to  
5 retain are covered by privilege. It doesn't have to be  
6 perfected; that's fine.

7 However, may I refer you, sir, to -- and  
8 this is my first point, that there is not a confidential  
9 communication here. And that would be the Sopinka text,  
10 Commissioner, which ---

11 **THE COMMISSIONER:** Yup.

12 **MR. NEVILLE:** --- is -- I'm not sure.

13 **THE COMMISSIONER:** Page 6.

14 **MR. NEVILLE:** Pardon me?

15 **THE COMMISSIONER:** Tab 6.

16 **MR. NEVILLE:** Thank you.

17 The paragraph would be 14.45.

18 **THE COMMISSIONER:** Son of a gun, it's not in  
19 there.

20 **MR. NEVILLE:** Oh, all right. I have copies.  
21 I have copies.

22 **THE COMMISSIONER:** I can see Mr. Scharbach  
23 didn't want me to ---

24 **MR. NEVILLE:** I have copies.

25 Of course he wouldn't want you to see that

1 part, sir.

2 (LAUGHTER/RIRES)

3 THE COMMISSIONER: I say that tongue-in-  
4 cheek, just for the record, so that if anyone is listening  
5 in, that we're not ...

6 MR. NEVILLE: I must say, Commissioner, I  
7 wasn't expecting my opponent today to be Mr. Scharbach.

8 I don't quite understand that, but I guess  
9 the MAG is taking whatever position they chose.

10 It's page 730 of the text, paragraph 14.45.

11 THE COMMISSIONER: Yes.

12 MR. NEVILLE: If you have that, sir, it's  
13 the last eight line or so of the paragraph. Maybe I'll  
14 just read them:

15 "If the solicitor is authorized or  
16 instructed by the client to transmit a  
17 communication to others, then it cannot  
18 be said that the client desired it to  
19 be confidential. Thus, in *Fraser v.*  
20 *Sutherland*<sup>73</sup>, the Court ruled that  
21 communications made to a solicitor  
22 which were intended to be and were put  
23 before the client's creditors as a  
24 compromise proposal were not  
25 privileged. Similarly, in *Conlon v.*

1                   *Conlon's Limited*, the English Court of  
2                   Appeal held that privilege did not  
3                   extend to instructions given by a  
4                   client to a solicitor for the purpose  
5                   of presenting an offer of settlement to  
6                   the opposite party."

7                   Now, that's the very essence -- on the  
8                   evidence before you, that is the very essence of the  
9                   conversations and overtures between Silmser and Johnson.  
10                  "Take my position, my offer, my questions to the Diocese."  
11                  That's not confidential.

12                  The first premise for solicitor-client  
13                  privilege to apply to a communication is it must be and  
14                  must be intended to be kept confidential. It is of the  
15                  essence of the relationship here to take it to the Diocese  
16                  on anybody's version. And therefore, it is not  
17                  confidential because it was not meant to be.

18                  The missing piece is was there a quid pro  
19                  quo?

20                  So in my submission, you're not even at the  
21                  issue of solicitor and client privilege because you do not  
22                  have a confidential communication.

23                  In the notes, in my view, respectfully, sir,  
24                  waiver, implicit waiver, already happened. It happened on  
25                  the 18<sup>th</sup> and 22<sup>nd</sup> of February, 1993. He's already told Ms.

1 Sebalj, in the notes of February 18<sup>th</sup>, what he wanted Mr.  
2 Johnson to do. That is waiver. He's already done it.

3 He also did it here in the witness box. He  
4 gave a different version of what purportedly happened in  
5 the bar/restaurant but he adopted, although his dispute  
6 seemed to be over the intoxication reference, and he  
7 adopted explicitly the notes and what was attributed to him  
8 on February 22<sup>nd</sup>. And that triggers the second implied  
9 waiver because in his comments, which he did not resile  
10 from from the 22<sup>nd</sup> of October, he criticized the ethics and  
11 conduct of Mr. Johnson; maybe not the ethics, the conduct.  
12 The conduct.

13 He made a criticism of his conduct as his  
14 lawyer because he says he fired him, and he fired him  
15 because of what he was doing against his wishes. So he has  
16 criticized at least his conduct, if not something beyond.

17 So in my respectful submission, you do not  
18 have a confidential communication and you have two forms of  
19 at least implicit waiver and indeed, given the testimony  
20 both in chief and cross by Mr. Silmser, plus the  
21 conversations as recorded by Detective Constable Sebalj,  
22 that is arguably explicit waiver. At the very least, it's  
23 implicit.

24 And those are my comments on the merits of  
25 it.

1                   **THE COMMISSIONER:** Thank you.

2                   Mr. Strawczynski, did you wish to add  
3                   anything?

4                   **MR. STRAWCZYNSKI:** Not at this time.

5                   **THE COMMISSIONER:** Thank you.

6                   Mr. Crane?

7                   **MR. CRANE:** Nothing to add. Thank you.

8                   **THE COMMISSIONER:** Thank you.

9                   Mr. Carroll?

10                  **MR. CARROLL:** Nothing to add. Thank you.

11                  **THE COMMISSIONER:** Thank you.

12                  Any reply, Mr. Scharbach?

13                  --- **REPLY BY/RÉPLIQUE PAR MR. SCHARBACH:**

14                  **MR. SCHARBACH:** Just two very quick points,  
15                  Mr. Commissioner.

16                                I may be misunderstanding what Mr. Neville  
17                                was saying, but from my reading of the cross-examination by  
18                                Mr. Sherriff-Scott of Mr. Silmser, when those versions of  
19                                Heidi Sebalj's notes were put to him, he specifically did  
20                                not adopt them.

21                                Secondly, when I look at the excerpt that  
22                                Mr. Neville has brought to your attention, it states:

23                                        "If the solicitor is authorized or  
24                                        instructed by the client to transmit a  
25                                        communication to others, then it cannot

1                                   be said that the client desired it to  
2                                   be confidential."

3                                   "It" meaning the communication. The  
4                                   communication isn't confidential. I don't think that  
5                                   means, though, that you can open up all of the discussion,  
6                                   all of the otherwise privileged advice that was sought and  
7                                   advice that was given regarding strategy and so on between  
8                                   the solicitor and the client.

9                                   I think all that means is that if the client  
10                                   authorizes the lawyer to bring some communication to the  
11                                   other side, it's no longer confidential. I think that's as  
12                                   far as that goes.

13                                   Those are my comments. Thank you.

14                                   **THE COMMISSIONER:** Thank you.

15                                   Mr. Lee?

16                                   **--- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. LEE:**

17                                   **MR. LEE:** Very, very briefly, sir.

18                                   I agree with what Mr. Scharbach just said  
19                                   about the nature of the -- as it surrounds "it" and what  
20                                   "it" means in that situation, and I don't think anybody can  
21                                   take the position that the note that Constable Sebalj  
22                                   makes, whether Mr. Silmsner agrees with it or disagrees with  
23                                   it, is purporting to say that Mr. Silmsner has discussed the  
24                                   entirety of his consultation with Mr. Johnson with Officer  
25                                   Sebalj. I think that's stretching.

1                   As it relates to Mr. Neville's suggestion  
2                   that there's been a waiver as a result of Mr. Silmser  
3                   calling into question Mr. Johnson's work or his integrity  
4                   or whatever it is ---

5                   **THE COMMISSIONER:** No, his conduct.

6                   **MR. LEE:** His conduct.

7                   That waiver must surely be intended to be  
8                   for the benefit of the lawyer being maligned and not third  
9                   parties, and we don't have Mr. Johnson here seeking to  
10                  defend his conduct by going behind what he apparently,  
11                  given Mr. Scharbach's position, is asserting to be  
12                  privileged.

13                  He's not seeking -- Mr. Johnson isn't the  
14                  one seeking a ruling here. It's third parties and, as I  
15                  say, that cannot be the intended purpose of that category  
16                  of waiver.

17                  **THE COMMISSIONER:** Thank you.

18                  Anyone else? Thank you.

19                  --- SUBMISSIONS BY THE COMMISSIONER/REPRÉSENTATIONS PAR LE  
20                  COMMISSAIRE:

21                  **THE COMMISSIONER:** Let me just say this,  
22                  that Mr. Strawczynski says, "Well, we are very interested  
23                  in finding out what was said during that conversation."  
24                  And while it may well be, the fact of the matter is that  
25                  there is good reason for the solicitor-client rule in

1 Canada. Both text and evidence indicate that people should  
2 be encouraged to seek legal advice and know that that  
3 confidence will be respected and that it should be  
4 respected unless it can be shown that it falls within the  
5 exceptions.

6 Briefly put, and maybe it's because of the  
7 hour, but I adopt the reasoning and the suggestions made by  
8 Mr. Scharbach and Mr. Lee. I believe that they have set  
9 out the position as I would find it and, accordingly, we  
10 will not go behind the solicitor-client privilege.

11 Thank you.

12 Now, we have some other material to go  
13 through, and that is some more monikers and things like  
14 that.

15 So I understand that since Mr. Lee was here  
16 yesterday, Mr. Carroll will volunteer to stay for the rest  
17 of this.

18 We'll take 10 minutes. Thank you.

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

21 This hearing will resume at 7:20 p.m.

22 --- Upon recessing at 7:09 p.m./

23 L'audience est suspendue à 19h09

24 --- Upon resuming at 7:21 p.m./

25 L'audience est reprise à 19h21

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

3                   This hearing has resumed. Please be seated.  
4                   Veillez vous asseoir.

5                   **THE COMMISSIONER:** Thank you.

6                   --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. DUMAIS:

7                   **MR. DUMAIS:** Good evening, Mr. Commissioner.  
8                   I'm just continuing where we left off last evening, dealing  
9                   with some of the publication ban and moniker issues that  
10                  were left outstanding and, in addition, we need to deal  
11                  with the Victims Group affidavit tonight.

12                  So the first issue I want to address with  
13                  you, I want to make a correction to the submission I made  
14                  last night when addressing monikers C-20 through to C-40,  
15                  and those were the monikers that applied for the evidence  
16                  of Mr. Guzzo. They are actually monikers C-24 to C-42.

17                  **THE COMMISSIONER:** Okay.

18                  **MR. DUMAIS:** So that was my mistake.

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

20                  **MR. DUMAIS:** The second issue deals with  
21                  Exhibit 1557. That exhibit was entered on May 1<sup>st</sup>, 2008.  
22                  It contained a list of alleged victims of Mr. Lucien  
23                  Labelle. There were 10 victims that were minors. Three  
24                  were adults. Charges were laid for the 10 minor victims  
25                  and not for the adults.

1 I indicated to you yesterday that I assumed  
2 that there had been a criminal publication ban because  
3 there had been a criminal proceeding. The proceeding was  
4 completed in 1985. We did determine that section 486(3) of  
5 the *Criminal Code of Canada* was mandatory and in effect at  
6 the time of that trial.

7 With respect to the three adult alleged  
8 victims, charges were not laid, although we do have  
9 information that they were making allegations that they  
10 were victims of Mr. Lucien Labelle.

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

12 **MR. DUMAIS:** So my request is that we go  
13 into an in camera session to identify the names of 13  
14 people and that they be given a moniker and granted a  
15 publication ban.

16 **THE COMMISSIONER:** All right. So granted.

17 **MR. DUMAIS:** I've got one more short issue  
18 to deal in an in camera hearing and, as well, I forgot last  
19 night to list all the -- list the monikers we've been using  
20 for the last six or seven weeks.

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

22 **MR. DUMAIS:** Other than that, the next issue  
23 is the affidavit. So briefly, Mr. Commissioner, I would  
24 like to address the issue of the Victims Group affidavits,  
25 and those were made in support of their application for

1 standing and funding back in 2005.

2 You will recall that on May 26<sup>th</sup>, 2007  
3 counsel for the Victims Group, Mr. Lee, wrote to the  
4 Commission regarding certain errors in the affidavits of  
5 their clients in support of their application for standing  
6 and funding.

7 On March 28, 2007 in the hearings room --  
8 and that's at Volume 101 -- Mr. Lee addressed the issue  
9 with you. Parties were also invited to make submissions.  
10 Mr. Lee agreed that his firm would contact each client and  
11 determine if there were errors in their affidavits and, if  
12 there were, to supplement -- to provide supplemental  
13 affidavits to correct the errors.

14 On April 26, 2007 -- and that's at Volume  
15 106 -- Mr. Lee updated yourself with regards to their  
16 efforts. At that time they still had seven clients yet to  
17 be contacted. On June 14, 2007 the Inquiry was provided  
18 with 22 supplementary affidavits. These affidavits  
19 outlined some of the errors contained in the original  
20 affidavits. At the time we were to understand that there  
21 were still five outstanding clients that Mr. Lee's firm had  
22 been unable to contact. There was a fifth one, so an  
23 additional person that had not been contacted, and that was  
24 Mr. Ron Leroux.

25 By the time we came around to dealing with

1 this issue, Mr. Leroux had terminated his client  
2 relationship with Ledroit Beckett. I understand that Mr.  
3 Lee sent Mr. Leroux's new solicitor a copy of the original  
4 affidavit, an example of the draft supplementary  
5 affidavits, and as well a description of the order of the  
6 Commissioner -- the order that you had made on April 30<sup>th</sup>,  
7 2007, and that was to Mr. Williams of the firm of Harrison  
8 Pensa, advising him to contact Commission counsel. As of  
9 this afternoon, Mr. Commissioner, he had still not done so.

10 In a letter dated February 20<sup>th</sup>, 2008 Mr. Lee  
11 outlined in point form the corrections contained in the  
12 supplementary affidavits. Commission counsel had asked for  
13 that, for the summary of the corrections for ease of  
14 reference.

15 And today, Mr. Commissioner, we'd like to  
16 file as Exhibit 7.3 to the Standing and Funding Application  
17 of the Victims Group, the February 20<sup>th</sup> letter, and all of  
18 the supplementary affidavits. And I don't have them with  
19 me but I will file those documents shortly. They should be  
20 filed as Exhibit 7.3.

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

22 **MR. DUMAIS:** And the last issue to be  
23 addressed, Mr. Commissioner, is the issue of publication  
24 ban of names of victims and alleged victims that are found  
25 throughout all of these affidavits, and some of those names

1 have been dealt with. You have issued orders granting  
2 publication ban on a number of them. I understand that  
3 there are a number of outstanding ones and Mr. Lee wishes  
4 to address you on that.

5 **THE COMMISSIONER:** All right.

6 Mr. Lee?

7 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. LEE:

8 **MR. LEE:** Thank you, sir.

9 I should begin by correcting something that  
10 Mr. Dumais said. He said a moment ago that the  
11 supplementary affidavits set out some of the errors in the  
12 original affidavits. They set out every single error in  
13 the original affidavits and I ---

14 **THE COMMISSIONER:** That you're aware of.

15 **MR. LEE:** What's that?

16 **THE COMMISSIONER:** That you're aware of.

17 **MR. LEE:** I can assure you that this was a  
18 very, very, very diligent process going through the  
19 affidavits, as you might appreciate.

20 Mr. Dumais has filed my letter of February  
21 20<sup>th</sup>, 2008 to the Commission. It sets out, as he says, in  
22 point form at their request, all of the -- the nature of  
23 the corrections that were made. It also sets out what Mr.  
24 Dumais set out for you relating to Mr. Leroux.

25 I should also address that as of my last

1 update to you on the record, there were four clients that  
2 we had been unable to reach, and I told you at that time  
3 that for each of those four we had sent at least two  
4 letters and we had made at least three phone calls,  
5 attempting to reach these persons.

6 I can tell you that as of today's date we  
7 have made efforts. Up to today, as we go, we have yet  
8 still not heard from a single one of these people. This  
9 dates to well over a year now. Three of these persons, we  
10 have completely lost touch with. We've actually in two of  
11 those cases managed to make contact with close family  
12 members who have also lost contact with these people and we  
13 simply, at this point, have no choice but to wait and hope  
14 that they get in contact with us at some point. The other  
15 person we've had similar problems.

16 The result of not being able to contact  
17 those four persons is that we have been unable to review  
18 the original affidavits with them. I can tell you no more  
19 than that. We have not spoken to them a single time since  
20 your original order, and I can certainly set out for you  
21 who those people are, but I'm going to first make a pitch  
22 related to confidentiality measures.

23 As Mr. Dumais stated, there are a number of  
24 my clients who you have already made orders relating to.  
25 C-10 is an example. There are others, such as Robert

1 Renshaw and Gerald Renshaw and others who have -- Steve  
2 Parisien and others who have come here and who are well  
3 known and who have been discussed and debated at this  
4 Inquiry.

5 Every one of my clients who has been  
6 relevant in some way to the evidentiary phase of this  
7 Inquiry has been dealt with one way or another. They've  
8 either been monikered or they've testified openly or been  
9 referred to openly.

10 That leaves a rather large category of my  
11 clients who in the end analysis have turned out not to be  
12 relevant to the evidentiary phase of this Inquiry. We  
13 haven't examined their allegations, we haven't examined  
14 their case. We obviously could not have appreciated that  
15 in 2005. We didn't know exactly how you would interpret  
16 your mandate and where we would go and what we would  
17 scrutinize.

18 You issued, sir, a direction on process on  
19 October 31<sup>st</sup>, 2006 and you have a heading in that titled  
20 "Names Not to be Referred to Before the Inquiry" and you  
21 wrote then:

22 "If a name is not to be referred to in  
23 the course of the hearings, counsel who  
24 is seeking confidentiality could ask  
25 for the issuance of a publication ban,

1 such as under Section 486.4 of the  
2 *Criminal Code*."

3 You further clarified your thinking on that  
4 matter in a ruling titled "Public Ruling on Confidentiality  
5 Measures for Exhibit Marked as C on an Interim Basis" and  
6 you wrote:

7 "As I indicated in my directions on  
8 process, the victims or alleged victims  
9 who have not come forward should not be  
10 on a different footing than the others.  
11 It has been established before the  
12 Inquiry that the revelation of child  
13 abuse after years of silence may have  
14 devastating consequences, let alone the  
15 public revelation of such abuse. I  
16 have a duty to ensure the protection of  
17 those individuals. As it stands, those  
18 individuals are not expected to be the  
19 focus of this Inquiry. Their names and  
20 identifiers are marginally relevant to  
21 my mandate at best."

22 **THE COMMISSIONER:** Mr. Lee?

23 **MR. LEE:** Yes.

24 **THE COMMISSIONER:** You've convinced me.

25 **MR. LEE:** Thank you, sir.

1                   What I would propose doing in relation to  
2                   those persons who have not arisen here is to list their  
3                   names for you in camera.

4                   **THE COMMISSIONER:** Yes.

5                   **MR. LEE:** And the relief I am seeking is not  
6                   a total ban. My clients and I have no concern with a  
7                   member of the public, as an example, coming to the front  
8                   counter and asking to see our full Standing and Funding  
9                   Application. We would ask for no confidentiality in that  
10                  regard.

11                  What we would ask, however; my understanding  
12                  is that the -- our original affidavits as well as the  
13                  supplementary affidavits will be reposted on the Commission  
14                  website.

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

16                  **MR. LEE:** Given that I'm asking for  
17                  confidentiality measures and a publication ban, I would ask  
18                  that we moniker each of these individuals and that the  
19                  moniker appear in place of their name and identifiers and  
20                  potentially their signature, so it will take some redacting  
21                  or editing of the document but, as I say, it will be fully  
22                  available to the public at the Commission desk, and  
23                  certainly if anybody has an interest in this, they will not  
24                  have any difficulty determining who these people are.

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

1                   **MR. LEE:** The other thing I would like to do  
2 is specifically ask you whether you have any questions  
3 relating to the supplementary affidavits, the process that  
4 we used ---

5                   **THE COMMISSIONER:** No.

6                   **MR. LEE:** --- or where we go, because I want  
7 to ensure on the record that I've satisfied you, that we've  
8 done what you ordered us to do.

9                   **THE COMMISSIONER:** I wanted people to pay  
10 attention to the victims individually, and that's what  
11 you've done.

12                   **MR. LEE:** Yes, sir, we did.

13                   **THE COMMISSIONER:** Thank you.

14                   **MR. LEE:** Thank you, sir.

15                   **THE COMMISSIONER:** Mr. -- so, have we  
16 completed our tasks in -- for tonight on the web and should  
17 we be going in camera now?

18                   **MR. DUMAIS:** Yes, Mr. Commissioner.

19                   **THE COMMISSIONER:** All right. So for those  
20 members of the public, all we're doing is we're going to go  
21 in camera for the purposes of providing monikers to those  
22 who I've ruled should be provided with monikers and that's  
23 what we'll be doing.

24                   **MR. DUMAIS:** There's the document that we  
25 filed that Madam Clerk now has as well.

1                   **THE COMMISSIONER:** Thank you. That will be  
2 Exhibit 7.3. All right?

3                   **MR. DUMAIS:** Yes, thank you.

4                   **THE COMMISSIONER:** Thank you.

5                   **THE REGISTRAR:** Order. All rise. À l'ordre.  
6 Veuillez vous lever.

7                   This hearing will resume at 7:40 p.m.

8 --- Upon recessing in public at 7:34 p.m. to resume in  
9 camera.

10 --- L'audience est suspendue en public à 19h34 pour  
11 reprendre à huis clos.

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C E R T I F I C A T I O N

I, Dale Waterman a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Dale Waterman, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



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Dale Waterman, CVR-CM